SUPPLEMENT

TO THE

CODES AND GENERAL LAWS

OF THE

STATE OF CALIFORNIA

OF

1915

SHOWING THE CHANGES AFFECTING THE CODES AND THE GENERAL LAWS TO THE END OF THE LEGISLATIVE SESSION OF 1917

BY

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THE

CODE OF CIVIL PROCEDURE

OF THE

STATE OF CALIFORNIA.

AMENDMENTS OF 1917.

§ 67a. Judges in counties of first class. Appointment of two additional judges. Election. Salary. In counties of the first class there shall be twenty judges of the superior court, any one or more of whom may hold court, and there may be as many sessions of said court at the same time as there are judges thereof. The said judges shall choose from their own number a presiding judge, who may at any time be removed as presiding judge and another judge chosen in his place by a vote of any twelve of them. The presiding judge shall distribute the business of the court among the judges thereof, and prescribe the order of business and perform such other duties as the judges of the said court may by rule provide. The judgments, orders and proceedings of any session of the superior court held by any one or more of the judges of said court shall be equally as effective as if all the said judges of said court presided at such session. Within thirty days after this act goes into effect, the governor shall appoint two additional judges of the superior court in counties of the first class in addition to the eighteen superior court judges already provided by law in and for the said counties of the first class who shall hold office until the first Monday after the first day of January, 1919. At the next general election to be held in November, A. D. 1918, two additional judges of the superior court shall be elected in counties of the first class, who shall be successors of the judges appointed hereunder, to hold office for the term prescribed by the constitution and by law. The salaries of said additional judges shall be the same in amount and be paid in the same manner and at the same time as the salaries of the other judges of the said counties of the first class now authorized by law. [Amendment approved May 5, 1917; Stats. 1917, p. 247.]

§ 86. Justices' clerk. Bond. Appointees. Duties. The supervisors of such city and county shall appoint a justices' clerk on the written nomination and recommendation of said justices or a majority of them, who shall hold office during good behavior, and who shall receive a salary of three thousand dollars a year. Said justices' clerk shall take the constitutional oath of office and give bond in the sum of ten thousand dollars for the faithful discharge of the duties of his office and in the same manner as is or may be required of officers of such city and county. A new or additional bond may be required by the supervisors of such city and county and in such amount as may be fixed by said supervisors whenever they may deem it necessary. The said clerk may appoint a chief deputy at a salary of two thousand four hundred dollars a year, a cashier at a salary of one thousand eight hundred dollars a year, and three deputy clerks and one messenger each at a salary of one thousand five hundred dollars a year. Said justices' clerk and each of said appointees shall have authority to administer oaths, take and certify affidavits, and issue and sign writs, summons, and all other processes in any action, suit or proceeding in said justices' court, and generally to do all the acts specified in sections 102 and 102a of this code. They shall be at their respective offices for the dispatch of official business daily, except Sundays, holidays and Saturday afternoons, from the hour of nine o'clock A. M. until five o'clock P. M. The salaries of said justices' clerk and his appointees shall be paid out of the treasury of said city and county in the same manner that salaries of officers of such city and county are paid, and shall be in lieu of all fees collected by them. All persons who have been appointed to such positions and who have served a period of six months in their respective positions, and all persons who may be appointed to such positions shall, after they have served a period of six months in their respective positions, be entitled to all the benefits of the civil service laws of this state.

§ 2. Repealed. All acts and parts of acts in conflict with the provisions of this act are hereby repealed. [Amendment approved April 16, 1917; Stats. 1917, p. 121.]

§ 103. Justices' courts. Number of justices in cities. Jurisdiction. Eligibility. Salaries. There shall be at least one justice's court in each of the townships of the state, for which one justice of the peace must be elected by the qualified electors of the township, at the general state election next preceding the expiration of the term of office of his predecessor.

In any county where, in the opinion of the board of supervisors, the public convenience requires it, the said board may, by order, provide that two justices' courts may be established in any township, designating the same in such order; and in such case, one justice of the peace must be elected in the manner herein provided for each of said courts. In every city of the first and one-half class there must be five justices of the peace, and in every city of the second class there must be two justices of the peace, and in every city of the second and one-half class there must be one justice of the peace, and in every city of the third and fourth classes there must be one justice of the peace, to be elected in like manner by the electors of such cities or town, respectively; and such justices of the peace of cities shall have the same jurisdiction, civil and criminal, as justices of the peace of townships and township justice's courts. Said justices of the peace of cities and justice's courts of cities shall also have jurisdiction of all proceedings for the violation of any ordinance of any city in which courts are established, both civil and criminal, and of all actions for the collection of any license required by any ordinance of any such city, and generally exercise all powers, duties and jurisdiction, civil and criminal, of police judges, judges of police courts, recorder's court or mayor's courts, within such city. No person is eligible to the office of justice of the peace in any city of the first, first and one-half, second, second and one-half or third class, who has not been admitted to practice law in this state; and no justice of the peace shall be permitted to practice law before another justice of the peace in the city, town or county in which he resides, or to have a partner engaged in the practice of law in any justice's court in such city, town or county. Every city justice of the peace in any city of the first and one-half class shall receive a salary of four thousand two hundred dollars per annum, and every city justice of the peace in any city of the second class shall receive a salary of three thousand six hundred dollars per annum, and every city justice of the peace in any city of the second and one-half class shall receive a salary of three thousand dollars per annum, and every city justice of the peace in any city of the third class shall receive a salary of two thousand dollars per annum, and every city justice of the peace in any city of the fourth class shall receive a salary of one thousand five hundred dollars per annum; and each justice of the peace shall be provided by the city authorities, or by the board of supervisors in counties where the salary of the city justice of the peace is paid by the county, with a suitable office in which to hold

his court. The compensation of the justice of the peace of any city shall be paid by warrants drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund of such city or county, as the case may be, such warrants to be audited and paid as salaries of any other city or county officials. All fees which are chargeable by law for services rendered by such city justice of the peace in cities aforesaid shall be by them respectively collected, and on the first Monday of each month every such city justice, or his clerk shall make a report, under oath, to the city or county treasurer, as the case may be, of the amount of fees so by him collected and pay the amount so collected into the city or county treasury, as the case may be, to the credit of the general fund thereof. Said salaries shall be the sole compensation of said city justices. [Amendment approved April 2, 1917; Stats. 1917, p. 34.]

§ 103c. Justices' clerks, counties of third class. Authority. Fees. Monthly report. In counties of the third class in townships having a population of more than seventy-five thousand there shall be one justice's clerk, and one deputy justice's clerk, who shall be appointed by the justice of the peace or justices, if more than one. Said clerk and deputy shall be appointed immediately on this act taking effect, and shall take the oath of office prescribed for county officers, and give a bond in the sum of five thousand dollars, conditioned for the faithful discharge of the duties of the office, which bond shall be approved and filed in the same manner as are bonds of county officers.

Such justice's clerk and deputy clerk shall be authorized to administer oaths, take and certify affidavits and shall be authorized to issue and sign writs, summons and all other process in any action or proceeding in the justice's court of the township for which they are appointed or pending before any justice of the peace of said township in the name of the justice before whom the same is pending or out of whose court the same is issued, which shall be in substantially the following form:

——— ———,
Justice of the peace.

——— ———,
Clerk.

By ——— ———,
Deputy clerk.

All legal papers of every kind in actions or proceedings in such justice's court shall be issued by the said justice's clerk in the manner and form hereinabove set out. The said justice's clerk shall issue, sign and certify to any and all papers, transcripts or records which are required to be issued, signed or certified by the said justice of the peace. All complaints, answers and other pleadings and papers required to be filed in said justice's court shall be filed with such justice's clerk who shall keep a permanent record of all such actions and proceedings in the justice's docket, now provided by law to be kept by the justice. The said clerk shall keep a record of the proceedings of said court and shall have the custody of all records and papers of the same.

All fees for the issuance of all process, or other fees, which are by law allowed for any official service of the justice of the peace shall be exacted and paid in advance into the hands of the justice's clerk, which, together with all fees, fines, forfeitures or penalties received in said justice's court shall be paid into the county treasury.

Said justice's clerk shall render each month to the county auditor and county treasurer, an exact account under oath of all fines, forfeitures, penalties and fees received by him or collected by said court. Said justice's clerk shall receive a salary of one thousand eight hundred dollars per year and said deputy clerk shall receive a salary of one thousand two hundred dollars per year, which shall be payable in like manner and out of the same funds and at like times as county officers are paid. The board of supervisors shall provide in a convenient locality a suitable office for the justice's clerk. The said justice's clerk shall be in attendance at his respective office in the discharge of official business daily from nine A. M. until five P. M. [New section added May 31, 1917; Stats. 1917, p. 1394.]

§ 190. Jury defined. A jury is a body of persons temporarily selected from the citizens of a particular district and invested with power to present or indict a person for a public offense, or to try a question of fact. [Amendment approved May 29, 1917; Stats. 1917, p. 1282.]

§ 192. Grand jury defined. A grand jury is a body of persons, nineteen in number, returned in pursuance of law, from the citizens of a county, or a city and county, before a court of competent jurisdiction, and sworn to inquire of public offense committed or triable within the county or city and county. [Amendment approved May 29, 1917; Stats. 1917, p. 1282.]

§ 193. Trial jury. A trial jury is a body of persons returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine by verdict, a question of fact. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 194. Number on trial jury. A trial jury shall consist of twelve persons; provided, that in civil actions and cases of misdemeanor, it may consist of twelve or any number less than twelve, upon which the parties may agree in open court. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 195. Jury of inquest. A jury of inquest is a body of persons summoned from the citizens of a particular district before the sheriff, coroner, or other ministerial officers, to inquire of particular facts. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 201. When juror excused. A juror shall not be excused by a court for slight or trivial causes, or for hardship, or for inconvenience to said juror's business, but only when material injury or destruction to said juror's property or of property entrusted to said juror is threatened, or when said juror's health, or when the health or proper care of said juror's own family, or when the sickness or death of a member of said juror's family make it necessary for said juror to be excused. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 204. Jury lists. In the month of January in each year it shall be the duty of the superior court in each of the counties of this state to make an order designating the estimated number of grand jurors and also the number of trial jurors, that will, in the opinion of said court, be required for the transaction of the business of the court, and the trial of causes therein, during the ensuing year; and immediately after said order designating the estimated number of grand jurors shall be made, the court shall select and list the grand jurors required by said order to serve as grand jurors in said superior court during the ensuing year, or until new lists of jurors shall be provided, and said selections and listings shall be made of men and women suitable and competent to serve as jurors, as set forth and required in sections two hundred five and two hundred six of this code, which list of persons so selected shall at once be placed in the possession of the county clerk; and immediately after said order designating the estimated number of trial jurors shall be made, the board of supervisors shall

select, as provided in sections two hundred five and two hundred six of this code, a list of men and women to serve as trial jurors in the superior court of said county during the ensuing year, or until a new list of jurors shall be provided.

In counties and cities and counties having a population of one hundred thousand inhabitants or over, such selection shall be made by a majority of the judges of the superior court. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 204a. **Jury commissioner may be appointed. Salary.** In any county or city and county in which, as provided by the preceding section, the selection of persons to serve as trial jurors is made by a majority of the judges of the superior court, a majority of the judges of such court, to assist the judges thereof in making selections of trial jurors and grand jurors, and whenever in their opinion the business of the court requires it, may, in their discretion, appoint a jury commissioner for such county or city and county, who shall receive a salary of three hundred dollars per month, not exceeding, however, one thousand five hundred dollars in any one fiscal year, and shall hold office at the pleasure of a majority of the judges of such court. Said salary shall be audited, allowed and paid out of the general fund of such county or city and county. [New section added May 26, 1917; Stats. 1917, p. 1169.]

§ 204b. **To furnish list of persons qualified for jurors.** Annually, and pursuant to written rules or instructions adopted by a majority of the judges of such court, the jury commissioner shall furnish the judges of the court a list of persons qualified to serve as trial jurors or grand jurors during the ensuing year, or until a new list of jurors shall be required. A majority of the judges of the court may, from time to time, adopt such rules and instructions as may be necessary for the guidance of the jury commissioner, who shall at all times be under the supervision and control of the judges of the court. [New section added May 26, 1917; Stats. 1917, p. 1169.]

§ 204c. **Duties.** It shall be the duty of the jury commissioner diligently to inquire and inform himself in respect to the qualifications of persons resident in his county or city and county who may be liable under the provisions of the laws of this state to be summoned for jury duty. He may require any person to answer, under oath to be administered by him, all such questions as he may address to such person, touching his

name, age, residence, occupation and qualifications as a juror, and also all questions as to similar matters concerning other persons of whose qualifications for jury duty he has knowledge. The commissioner shall have power to administer oaths. He shall be allowed his actual traveling expenses incurred in the performance of his duties while visiting the respective townships in the county, such traveling expenses to be audited, allowed and paid out of the general fund of the county. [New section added May 26, 1917; Stats. 1917, p. 1169.]

§ 204d. Jurors selected by majority of judges. Pursuant to the rules and instructions adopted by a majority of the judges of the court, the jury commissioner shall return to the judges the lists of persons recommended by him for jury duty. The judges of said superior court shall examine the jury lists so returned and from such lists a majority of said judges may select, to serve as trial jurors and grand jurors, respectively, in the superior court of said county or city and county during the ensuing year, or until a new list of jurors is required, such persons as, in their opinion, should be selected for such jury duties; provided, however, that the persons so selected shall, in the opinion of the judges selecting the same, be persons suitable and competent to serve as jurors, as set forth and required in this code. The judges, however, shall not be bound to select any names from said lists, but may, if in their judgment the due administration of justice requires, make all or any selections from among the body of persons in the county or city and county suitable and competent to serve as jurors regardless of the lists returned by the jury commissioner. [New section added May 26, 1917; Stats. 1917, p. 1170.]

§ 204e. Secretary of superior judges as jury commissioner. In any county or city and county where there is a secretary of the superior judges of such county or city and county, a majority of the superior judges may in their discretion require such secretary to perform the duties of jury commissioner in addition to his regular duties as secretary. In such case the salary of the secretary of the superior judges shall be three hundred fifty dollars a month. [New section added May 26, 1917; Stats. 1917, p. 1170.]

§ 226. Order for jurors to appear forthwith. Whenever jurors are not drawn or summoned to attend any court of record or session thereof, or a sufficient number of jurors fail to appear, such court may order a sufficient number to be forth-

with drawn and summoned to attend the court, or it may, by an order entered in its minutes, direct the sheriff, or an elisor chosen by the court forthwith to summon so many good and lawful persons of the county, or city and county, to serve as jurors, as may be required, and in either case such jurors must be summoned in the manner provided in the preceding section. [Amendment approved May 27, 1917; Stats. 1917, p. 1284.]

§ 246. **Excuses. Names deposited in box.** At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned, and the court may then hear the excuses of jurors summoned; provided, that it may be left to the discretion of the court to accept an affidavit of excuse under section two hundred two of this code without a personal appearance in court of the juror summoned. The clerk shall then write the names of the jurors present and not excused upon separate slips or ballots of paper, and fold such slips so that the names are concealed, and there, in the presence of the court deposit the slips or ballots in a box, which must be kept sealed or locked until ordered by the court to be opened. [Amendment approved May 27, 1917; Stats. 1917, p. 1284.]

§ 276. **Examination for admission as attorney.** Every applicant for admission as an attorney and counselor must produce satisfactory testimonials of a good moral character, and satisfactory proof of having studied law for a period of at least two years, and undergo in open court a strict examination, a part of which must be in writing, as to his qualifications by the justices of one of the district courts of appeal. This section shall not take effect until January first, one thousand nine hundred eighteen. [Amendment approved May 23, 1917; Stats. 1917, p. 906.]

§ 280a. **Effect of diploma granted by Hastings College of the Law.** [Repealed May 23, 1917; Stats. 1917, p. 880.]

§ 280b. **Graduates of law schools admitted to practice.** [Repealed May 23, 1917; Stats. 1917, p. 831.]

§ 337. **Actions commenced within four years.** Within four years. 1. An action upon any contract, obligation or liability found upon an instrument in writing.

2. An action to recover (1) upon a book account whether consisting of one or more entries; (2) upon an account stated;

(3) a balance due upon a mutual, open and current account; provided, however, that where an account stated is based upon an account of one item, the time shall begin to run from the date of said item, and where an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item. [Amendment approved May 10, 1917; Stats. 1917, p. 299.]

§ 339. Actions commenced within two years. Within two years. 1. An action upon a contract, obligation or liability not founded upon an instrument of writing, other than that mentioned in subdivision two of section three hundred thirty-seven of this code; or an action founded upon a contract, obligation or liability, evidenced by a certificate, or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation or liability evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance shall not be deemed to have accrued until the discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty including the nonpayment of money collected upon an execution. But this subdivision does not apply to an action for an escape. [Amendment approved May 10, 1917; Stats. 1917, p. 299.]

§ 341. Actions to be commenced within six months. Within six months:

An action against an officer, or officer de facto:

1. To recover any goods, wares, merchandise, or other property, seized by any such officer in his official capacity as tax collector, or to recover the price or value of any goods, wares, merchandise, or other personal property so seized, or for damages for the seizure, detention, sale of, or injury to any goods, wares, merchandise, or other personal property seized, or for damages done to any person or property in making any such seizure.

2. To recover stock sold for a delinquent assessment, as provided in section three hundred forty-seven of the Civil Code.

3. To set aside or invalidate any action taken or performed by a majority of the trustees of any corporation heretofore or hereafter dissolved by operation of law, including the revivor

of any such corporation. [Amendment approved May 11, 1917; Stats. 1917, p. 381.]

§ 348. No limitation to certain actions. Not applicable to banks, etc. To actions brought to recover money or other property deposited with any bank, banker, trust company, building and loan association, or savings and loan society there is no limitation.

This section shall not apply to banks, bankers, trust companies, building and loan associations, and savings and loan societies which have become insolvent and are in process of liquidation and in such cases the statute of limitations shall be deemed to have commenced to run from the beginning of the process of liquidation; provided, however, nothing herein contained shall be construed so as to relieve any stockholder of any banking corporation or trust company from stockholder's liability as shall at any time, be provided by law. [Amendment approved June 1, 1917; Stats. 1917, p. 1573.]

§ 473. Pleading may be amended. Time for application. Action to recover personal property. The court may in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this code; and may, also, upon such terms as may be just, relieve a party or his legal representative from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, surprise, or excusable neglect; provided, that application therefor be made within a reasonable time, but in no case exceeding six months after such judgment, order, or proceeding was taken; and provided, further, that said application must be accompanied with a copy of the answer, or other pleading proposed to be filed therein, otherwise said application shall not be granted. When from any cause the summons in an action has not been personally served on the defendant, the court may allow, on such terms as may be just, such defendant or his legal representative, at any time within one year after the rendition of any judgment in such action, to answer to the merits of the original action.

When, in an action to recover the possession of personal property, the person making any affidavit did not truly state the value of the property, and the officer taking the property, or the sureties on any bond or undertaking is sued for taking the same, the officer or sureties may in their answer set up the true value of the property, and that the person in whose behalf said affidavit was made was entitled to the possession of the same when said affidavit was made, or that the value in the affidavit stated was inserted by mistake, the court shall disregard the value as stated in the affidavit, and give judgment according to the right of possession of said property at the time the affidavit was made. [Amendment approved May 5, 1917; Stats. 1917, p. 242.]

§ 534. Actions concerning water rights. Defendant's answer. Plaintiff's reply. Appropriation and damages fixed. Appeal. No injunction, when. Jury trial. In any action brought by a riparian owner to enjoin the diversion of water appropriated or proposed to be appropriated, or the use thereof, against any person or persons appropriating or proposing to appropriate such waters, the defendant may set up in his answer that the water diverted or proposed to be diverted is for the irrigation of land or other public use, and, in such case, he shall also in such answer set forth the quantity of water desired to be taken and necessary to such irrigation of land or the public use, the nature of such use, the place where the same is used or proposed to be used, the duration and extent of the diversion or the proposed diversion, including the stages of the flow of the stream at and during the time in which the water is to be diverted, and that the same may be diverted without interfering with the actual and necessary beneficial uses of the plaintiff, and that such defendant so answering desires that the court shall ascertain and fix the damages, if any, that will result to the plaintiff or to his riparian lands from the appropriation of the water so appropriated or intended to be appropriated by defendant.

The plaintiff may serve and file a reply to the defendant's answer stating plaintiff's rights to the water and the damage plaintiff will suffer by the defendant's taking of the water, and plaintiff may implead as parties to the action all persons necessary to a full determination of the rights of plaintiff to the water and the damages plaintiff will suffer by the proposed taking by defendant, and the court shall have jurisdiction to hear and determine all the rights to water of the plain-

tiff and other parties to the action, and said parties shall have a right to state and prove their rights, and shall be bound by the judgment rendered the same as though made parties plaintiff at the commencement of the action.

Upon the trial of the case the court shall receive and hear evidence on behalf of the respective parties, and if the court finds that the allegations of such answer are true as to the aforesaid matters, and that the appropriation and diversion of such waters is for irrigation of land or other public use and that, after allowing sufficient water for the actual and necessary beneficial uses of the plaintiff and other parties, there is water available to be beneficially appropriated by such defendant so answering, the court shall fix the time and manner and extent of such appropriation and the actual damages, if any, resulting to the plaintiff or other parties on account of the same, and in fixing such damages the court shall be guided by paragraph four of section one thousand two hundred forty-eight of this code, and if, upon the ascertainment and fixing of such damages the defendant, within the time allowed in section one thousand two hundred fifty-one of this code for the payment of damages in proceedings in eminent domain, shall pay into court the amount of damages fixed and the costs adjudged to be paid by such defendant, or give a good and sufficient bond to pay the same upon the final settlement of the case, the injunction prayed for by the plaintiff shall be denied to the extent of the amount the defendant is permitted to appropriate, as aforesaid, and the temporary injunction, if any has been granted, shall be vacated to the extent aforesaid; provided, that any of the parties may appeal from such judgment as in other cases; and provided, further, that if such judgment is in favor of the defendant and if he upon and pending such appeal shall keep on deposit with the clerk of said court the amount of such damages and costs, or the bond, if it be given, so awarded to be paid to the plaintiff or other parties in the event such judgment shall be affirmed, no injunction against the appropriation of the amount the defendant is permitted to appropriate as aforesaid shall be granted or enforced pending such appeal, and, upon the acceptance by the plaintiff or other parties of such amount so awarded or upon the affirmation of such decision on appeal so that such judgment shall become final, the defendant shall have the right to divert and appropriate from such stream, against such plaintiff or other parties and his successors in interest, the quantity of water therein adjudged and allowed. Upon the filing

of such answer as is herein provided for, the parties plaintiff or other parties and defendant shall be entitled to a jury trial upon the issues as to damages so raised, as provided in title seven, part three of this code, applying to actions in eminent domain. [New section added May 19, 1917; Stats. 1917, p. 744.]

§ 540. Writ of attachment. If more than one defendant. The writ must be directed to the sheriff of any county in which property of such defendant may be, and must require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against such defendant, the amount of which must be stated in conformity with the complaint, unless such defendant give him security by the undertaking of at least two sufficient sureties in an amount sufficient to satisfy such demand against such defendant, besides costs, or in an amount equal to the value of the property of such defendant which has been or is about to be attached; in which case to take such undertaking.

In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the sheriff such undertaking, and the sheriff shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the sheriff thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant; provided, however, that such defendant, at the time of giving such undertaking to the sheriff, shall file with the sheriff, a statement, duly verified under oath, wherein such defendant shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he acquired title to such attached property; provided, further, that before said attachment shall be released, the undertaking required by this section must be approved by the judge of the court issuing same or if said writ of attachment is from another county, then by a judge of a court of similar jurisdiction in the county where the levy shall have been made.

Several writs may be issued at the same time to the sheriffs of different counties. [Amendment approved May 26, 1917; Stats. 1917, p. 938.]

§ 554. Proceedings to release attachments. Whenever any defendant has appeared in the action, such defendant may upon reasonable notice to the plaintiff, apply to the court in which the action is pending, or to the judge thereof, for an order to discharge the attachment wholly, or in part; and upon the execution of the undertaking mentioned in the next section, an order may be made releasing from the operation of the attachment, any or all of the property of such defendant attached; and all of the property so released and all of the proceeds of the sales thereof, must be delivered to such defendant upon the justification of the sureties on the undertaking, if required by the plaintiff. Such justification must take place within five days after the notice of the filing of such undertaking. [Amendment approved May 26, 1917; Stats. 1917, p. 939.]

§ 555. Requirements by court for release from attachment. Before making such order, the court or judge must require an undertaking on behalf of such defendant, by at least two sureties, residents and freeholders, or householders in the state to the effect that in case the plaintiff recovers judgment in the action against the defendant, by whom, or in whose behalf such undertaking shall be given, such defendant will, on demand, redeliver the attached property so released to the proper officer, to be applied to the payment of any judgment in such action against said defendant, or in default thereof, that such defendant and sureties will, on demand, pay to the plaintiff the full value of the property released not exceeding the amount of such judgment against such defendant. The court or judge making such order may fix the sum for which the undertaking must be executed, and if necessary in fixing such sum to know the value of the property released, the same may be appraised by one or more disinterested persons, to be appointed for that purpose. The sureties may be required to justify before the court or judge and the property attached cannot be released from the attachment without their justification if the same is required. [Amendment approved May 26, 1917; Stats. 1917, p. 939.]

§ 570. Notice of unclaimed funds in receiver's hands. A receiver having any funds in his hands belonging to a person whose whereabouts are unknown to him, shall, before receiving his discharge as such receiver, publish a notice, in one or more newspapers published in the county, at least once a week for four consecutive weeks, setting forth the name of the

owner of any unclaimed funds, the last known place of residence or postoffice address of such owner and the amount of such unclaimed funds. Any funds remaining in his hands unclaimed for thirty days after the date of the last publication of such notice, shall be reported to the court, and upon order of the court, all such funds must be paid into the state treasury accompanied with a copy of the order, which must set forth the facts required in the notice herein provided. Such funds shall be paid out by the state treasurer to the owner thereof or his order in such manner and upon such terms as are now or may hereafter be provided by law.

All costs and expenses connected with such advertising shall be paid out of the funds the whereabouts of whose owners are unknown. [Amendment approved April 25, 1917; Stats. 1917, p. 203.]

§ 660. Time of hearing motion for new trial. New trial hearing has precedence. The motion for a new trial must be heard at the earliest practicable time after the filing of affidavits and counteraffidavits, in case the motion is made on affidavits, in other cases after the filing of the notice. On such hearing reference may be had in all cases to the pleadings and orders of the court on file, and when the motion is made on the minutes, reference may also be had to any depositions and documentary evidence offered at the trial and to the report of the proceedings on the trial taken by the phonographic reporter, or to any certified transcript of such report, or if there be no such report or certified transcipt, to such proceedings occurring at the trial as are within the recollection of the judge; when the proceedings at the trial have been phonographically reported, but the reporter's notes have not been transcribed, the reporter must, upon request of the court, or either party, attend the hearing of the motion, and shall read his notes, or such parts thereof as the court, or either party, may require. The hearing and disposition of the motion for a new trial shall have precedence over all other matters except criminal cases, probate matters and cases actually on trial, and it shall be the duty of the court to determine the same at the earliest possible moment. The power of the court to pass on motion for new trial shall expire within three months after the verdict of the jury or service on the moving party of notice of the entry of the judgment. If such motion is not determined within said three months, the effect shall be a denial of the motion without further order of the court. [Amendment approved May 5, 1917; Stats. 1917, p. 240.]

§ 671. Judgment liens. Continues five years. Immediately after filing the judgment-roll, the clerk must make the proper entries of the judgment under appropriate heads, in the docket kept by him, noting thereon the hour and minute of the day of such entry; and from the time the judgment is docketed it becomes a lien upon all the real property of the judgment debtor not exempt from execution in the county, owned by him at the time, or which he may afterward acquire, until the lien ceases. The lien continues for five years unless the enforcement of the judgment be stayed on appeal by the execution of a sufficient undertaking as provided in this code, in which case the lien of the judgment and any lien by virtue of an attachment that has been issued and levied in the action ceases. [Amendment approved April 19, 1917; Stats. 1917, p. 141.]

§ 671a. Filing judgments of United States courts. Transcripts of judgments and copies of judgments rendered in the district or other courts of the United States within the state of California, when certified by the clerk of said courts under the seal thereof, may be filed and recorded in the office of the county clerk of any county in this state, and when so filed the clerk shall immediately enter the same in the judgment docket in the same manner as judgments rendered in the superior court are entered and such transcripts of judgments and copies of judgments, when so certified, may be filed for record in the office of any county recorder of this state and when so filed for record the county recorder shall record and index the same in the same manner as transcripts of judgments and copies of judgments of the courts of this state are recorded and indexed; and from such recording the judgment becomes a lien upon all the real property of the judgment debtor not exempt from execution in such county, owned by him at the time, or which he may afterward, and before the lien expires, acquire. [New section approved April 19, 1917; Stats. 1917, p. 142.]

§ 850. Notice of hearing in justices' courts. Docket entries. When all the parties served with process shall have appeared, or some of them have appeared, and the remaining defendants have made default, the justice must fix the day for the trial of said cause, whether the issue is one of law or fact, and give notice thereof to the parties to the action who have appeared, but in case any of the parties are represented by an attorney, then to such attorney; provided, however, that

where a party has appeared in person, such party shall leave with the justice or justice's clerk, and the same shall be entered upon the register in the action, an address where service of the notice of hearing of such matter may be made; provided, further, that such notice shall be personally served on said person if he can be found at said address, but in case said person cannot, after due diligence, be found at said address and such fact appears by affidavit to the satisfaction of the court or a judge thereof, then the service of such notice may be by registered mail and in the manner hereinafter provided for service of notice by mail. Such notice shall be in writing, signed by the justice, and substantially in the following form, filling blanks according to the facts:

In the justice court, —— township (or city, or city and county), county, or city and county of ——, State of California.

—— plaintiff, vs. —— defendant.

To —— plaintiff, or —— attorney for plaintiff, and to defendant, or —— attorney for defendant.

You and each of you will please take notice that the undersigned justice of the peace before whom the above-entitled cause is pending, has set for hearing the demurrer of ——, filed in said cause (or has set the said cause for trial, as the case may be), before me at my office in said township (or city, or city and county), at — o'clock — m., on the —— day of ——, 19—.

Dated this —— day of ——, 19—.

(Signed) —— ——,
Justice of the peace.

Said notice shall be served by mail or personally. When served by mail the justice of the peace shall deposit copies thereof in a sealed envelope in the postoffice at least ten days before the trial or hearing addressed to each of the persons on whom it is to be served at their place of residence and the postage prepaid thereon; provided, that such notice shall be served by mail only when the person on whom service is to be made resides out of the county in which said justice's court is situated, or is absent therefrom or has appeared in person. When personally served said notice shall be served at least five days before the trial or hearing on the persons on whom it is to be served by any person competent and qualified to serve a summons in a justice's court, and when personally served it shall be served, returned and filed in like manner as a summons. When a party has appeared by attorney the notice may be served in the manner prescribed by subdivision one of

section one thousand eleven of this code. The justice shall enter on his docket the date of trial or hearing; and when such notice shall have been served by mail the justice shall enter on his docket the date of mailing such notice of trial or hearing and such entry shall be prima facie evidence of the fact of such service. The parties are entitled to one hour in which to appear after the time fixed in said notice, but are not bound to remain longer than that time unless both parties have appeared and the justice being present is engaged in the trial of another cause. [Amendment approved April 24, 1917; Stats. 1917, p. 190.]

§ 868. Attachment by sheriff or constable. Keeper. If more than one defendant. Service out of county. The writ may be directed to the sheriff or any constable of the county in which such justice court is situate and must require him to attach and safely keep all of the property of the defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against the defendant, the amount of which must be stated in conformity with the complaint, unless the defendant, whose property has been or is about to be attached, give him security by the undertaking of two sufficient sureties, in an amount sufficient to satisfy such demand against such defendant besides costs; in which case to take such undertaking; provided, however, that whenever a levy shall be made upon personal property, other than money, belonging to a going concern, then the sheriff must, if the defendant consents, place a keeper in charge of said attached property at plaintiff's expense for at least two days or more, and said keeper's fees must be prepaid by the attaching creditor. After the expiration of said two days, the sheriff shall take said property into his immediate custody, unless other disposition is made by the court or parties.

In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the sheriff such undertaking, and the sheriff shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the sheriff thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant; provided, however, that such defendant, at the time of giving such undertaking to the sheriff, shall file with the sheriff a statement duly verified under oath, wherein such defendant

shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he acquired title to such attached property.

Several writs may be issued at the same time to the sheriffs or constables of different counties; provided, that where a writ of attachment issued by a justice of the peace is to be served out of the county in which it was issued, the writ of attachment shall have attached to it a certificate under seal by the county clerk of such county, to the effect that the person issuing the same was an acting justice of the peace of said county at the date of the writ. [Amendment approved May 26, 1917; Stats. 1917, p. 939.]

§ 963. Cases in which an appeal may be taken. An appeal may be taken from a superior court in the following cases:

1. From a final judgment entered in an action, or special proceeding, commenced in a superior court, or brought into a superior court from another court;

2. From an order granting a new trial in an action or proceeding tried by a jury where such trial by jury is a matter of right, or granting or dissolving an injunction, or refusing to grant or dissolve an injunction, or appointing a receiver, or dissolving or refusing to dissolve an attachment, or changing or refusing to change a place of trial, from any special order made after final judgment, from any interlocutory judgment, order, or decree, hereafter made or entered in actions to redeem real or personal property from a mortgage thereof, or lien thereon, determining such right to redeem and directing an accounting; and from such interlocutory judgment in actions for partition as determines the rights and interests of the respective parties and directs partition to be made, and interlocutory decrees of divorce.

3. From a judgment or order granting or refusing to grant, revoking or refusing to revoke, letters testamentary, or of administration, or of guardianship; or admitting or refusing to admit a will to probate, or against or in favor of the validity of a will, or revoking or refusing to revoke the probate thereof; or against or in favor of setting apart property, or making an allowance for a widow or child; or against or in favor of directing the partition, sale or conveyance of real property, or settling an account of an executor, administrator or guardian,

or refusing, allowing or directing the distribution or partition of an estate, or any part thereof, or the payment of a debt, claim, or legacy, or distributive share; or confirming or refusing to confirm a report of an appraiser or appraisers setting apart a homestead; from an order, judgment or decree fixing inheritance tax or determining that no inheritance tax is due. [Amendment approved May 17, 1917; Stats. 1917, p. 624.]

§ 1238. Right of eminent domain. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

1. **Uses of United States.** Fortifications, magazines, arsenals, navy yards, navy and army stations, lighthouses, range and beacon lights, coast surveys, and all other public uses authorized by the government of the United States.

2. **Uses of state.** Public buildings and grounds for the use of the state, or any state institution, and all other public uses authorized by the legislature of the state.

3. **Public utilities, counties, cities, etc.** Any public utility, and public buildings and grounds, for the use of any county, incorporated city, or city and county, village, town or school districts, ponds, lakes, canals, aqueducts, reservoirs, tunnels, flumes, ditches or pipes, lands, water system plants, buildings, rights of any nature in water, and any other character of property necessary for conducting or storing or distributing water for the use of any county, incorporated city, or city and county, village or town or municipal water district, or the inhabitants thereof, or any state institution, or necessary for the proper development and control of such use of said water, either at the time of the taking of said property, or for the future proper development and control thereof, or for draining any county, incorporated city, or city and county, village or town; raising the banks of streams, removing obstructions therefrom, and widening and deepening or straightening their channels; roads, highways, boulevards, streets and alleys; public mooring places for water craft; public parks, including parks and other places covered by water, and all other public uses for the benefit of any county, incorporated city, or city and county, village or town, or the inhabitants thereof, which may be authorized by the legislature; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.

4. **Wharves, ferries, bridges, etc.** Wharves, docks, piers, warehouses, chutes, booms, ferries, bridges, tollroads, byroads, plank and turnpike roads; paths and roads either on the surface, elevated, or depressed, for the use of bicycles, tricycles, motorcycles and other horseless vehicles, steam, electric, and horse railroads, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation, public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on streams not navigable, and water, water rights, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation of lands furnished with water by corporations supplying water to the lands of the stockholders thereof only, and lands with all wells and water therein adjacent to the lands of any municipality or of any corporation, or person supplying water to the public or to any neighborhood or community for domestic use or irrigation.

5. **Roads, flumes, etc., for mines.** Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise for the flow, deposit or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines.

6. **Byroads.** Byroads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes.

7. **Telegraph.** Telegraph and telephone lines, systems and plants.

8. **Sewerage.** Sewerage of any incorporated city, city and county, or of any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any buildings belonging to the state, or to any college or university, also the connection of private residences and other buildings, through other property, with the mains of an established sewer system in any such city, city and county, town or village.

9. **Roads.** Roads for transportation by traction engines or road locomotives.

10. **Pipe-lines.** Oil pipe-lines.

11. **Lumbering.** Railroads, roads and flumes for quarrying, logging or lumbering purposes.

12. **Canals, reservoirs, dams, etc.** Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes and outlets natural or otherwise for supplying, storing, and discharging water for the operation of machinery for the purpose of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills, and factories with electric power; and also for the applying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages or towns; and also for furnishing electricity for lighting, heating or power purposes to individuals or corporations; together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

13. **Power lines.** Electric power lines, electric heat lines, electric light lines, electric light, heat and power lines, and works or plants, lands, buildings or rights of any character in water, or any other character of property necessary for the generation, transmission or distribution of electricity for the purpose of furnishing or supplying electric light, heat or power to any county, city and county or incorporated city or town, or the inhabitants thereof, or necessary for the proper development and control of such use of such electricity, either at the time of the taking of said property, or for the future proper development and control thereof.

14. **Cemeteries.** Cemeteries for the burial of the deed, and enlarging and adding to the same and the grounds thereof.

15. **Public records.** The plants, or any part thereof or any record therein of all persons, firms or corporations heretofore, now or hereafter engaged in the business of searching public records, or publishing public records or insuring or guaranteeing titles to real property, including all copies of, and all abstracts or memoranda taken from, public records, which are owned by, or in the possession of such persons, firms or corporations, or which are used by them in their respective businesses; provided, however, that the right of eminent domain in behalf of the public uses mentioned in this subdivision may be exercised only for the purposes of restoring or replacing, in whole or in part, public records, or the substance of public records, of any city, city and county, county or other munici-

pality, which records have been, or may hereafter be, lost or destroyed by conflagration or other public calamity; and provided, further, that such right shall be exercised only by the city, city and county, county or municipality, whose records, or part of whose records, have been, or may be, so lost or destroyed.

16. **Fairs.** Expositions or fairs in aid of which the granting of public moneys or other things of value has been authorized by the constitution.

17. **Gasworks, etc.** Works or plants for supplying gas, heat, refrigeration or power to any county, city and county, or incorporated city or town, or the inhabitants thereof, together with lands, buildings, and all other improvements in or upon which to erect, install, place, maintain, use or operate machinery, appliances, works and plants for the purpose of generating, transmitting and distributing the same and rights of any nature in water, or property of any character necessary for the purpose of generating, transmitting and distributing the same, or necessary for the proper development and control of such use of such gas, heat, refrigeration, or power, either at the time of the taking of said property, or for the future proper development and control thereof.

18. **Trees along highways.** Standing trees and ground necessary for the support and maintenance thereof, along the course of any highway, within a maximum distance of three hundred feet on each side of the center thereof; and ground for the culture and growth of trees along the course of any highway, within a maximum distance of three hundred feet on each side of the center thereof. [Amendment approved April 5, 1917; Stats. 1917, p. 59.]

§ 1269. Action on behalf of state. Description of property. Order to appear. If proceedings for administration have been instituted. State treasurer to hold property. At any time after two years after the death of any decedent, leaving property to which the state is entitled by reason of its having escheated to the state, the attorney general shall commence a proceeding on behalf of the state in the superior court for Sacramento county to have it adjudged that the state is so entitled. Such action shall be commenced by filing a petition, which shall be treated as the information elsewhere referred to in this title. There shall be set forth in such petition a description of the property, the name of the person last pos-

sessed thereof, the name of the person, if any, claiming such property, or any portion thereof, and the facts and circumstances by virtue of which it is claimed the property has escheated. Upon the filing of such petition, the court must make an order requiring all persons interested in the estate to appear and show cause, if any they have, within sixty days from the date of the order, why such estate should not vest in the state. Such order must be published at least once a week for four successive weeks in a newspaper published in said county of Sacramento, the last publication to be at least ten days prior to the date set for the hearing. Upon the completion of the publication of such order the court shall have full and complete jurisdiction over the state, the property, and the person of everyone having or claiming any interest in the said property, and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate judgment thereon. If proceedings for the administration of such estate have been instituted, a copy of such order must be filed with the papers in such estate in the office of the county clerk where such proceedings were had. If proceedings for the administration of any estate of any such decedent have been instituted and none of the persons entitled to succeed thereto have appeared and made claim to such property, or any portion thereof, before the decree of final distribution therein is made, or before the commencement of such proceeding by the attorney general, or if the court shall find that such persons as have appeared are not entitled to the property of such estate, or of any portion thereof, the court shall, upon final settlement of the proceedings for the administration of such estate, after the payment of all debts and expenses of administration, distribute all moneys and other property remaining to the state of California. The property so distributed shall be held by the state treasurer for a period of five years from the date of the decree making such distribution within which time the same may be claimed in the manner in this title hereafter provided, but a nonresident foreigner claiming succession in any case must appear and claim within five years from the death of the decedent, and any person who does not appear and claim as herein required shall be forever barred, and such property, or so much thereof as is not so claimed, shall vest absolutely in the state. In any proceeding brought by the attorney general under this title any two or more parties and any two or more causes of action may be joined in the same proceeding and in the same petition without being separately stated, and it shall be sufficient to allege

in the petition that the decedent left no heirs to take the estate and the failure of heirs to appear and set up their claims in any such proceeding, or in any proceedings for the administration of such estate, shall be sufficient proof upon which to base the judgment in any such proceeding or such decree of distribution. Where proceedings for the administration of any estate have not been commenced within six months from the death of any decedent the attorney general may direct the public administrator to commence the same forthwith. [Amendment approved May 5, 1917; Stats. 1917, p. 253.]

§ 1272a. **Petition showing claim to estate deposited with state treasurer. Claim for less than $300.** When the estate, or any portion thereof, of any decedent has been deposited with the state treasurer under the provisions of this code, any person entitled to succeed and not a party or privy to any proceeding had under any of the foregoing sections of this title, and who has not appeared in the proceedings for the administration of such estate, may, within five years after the date of the decree of final distribution, unless otherwise barred, file a petition in the superior court for Sacramento county against the state of California showing his claim or right to the property, or the proceeds thereof, or to any portion thereof. Said petition shall be verified, and, among other things, must state the facts required to be stated in a petition filed under section one thousand two hundred and seventy-two of this code, and upon the filing thereof the same proceedings shall be had as are therein required. Whenever the amount claimed by any such person is less than three hundred dollars any such claimant may, in lieu of filing such petition, present his claim to the state board of control, showing the same facts required to be stated in such petition and said board may, upon recommendation of the attorney general, allow and order paid such claim, provided that no such claim shall be so allowed or paid until at least five years after the death of the decedent and then, only, in the event that no other claim is made to such property. When payment has been made under this title to any claimant no suit shall thereafter be maintained by any other claimant against the state, or any officer thereof, for or on account of such property. [New section added May 5, 1917; Stats. 1917, p. 254.]

§ 1380. **Request for special notice of proceedings.** At any time after the issuance of letters testamentary or of administration upon the estate of any decedent, any person interested

in said estate (including the state controller), whether as heir, devisee, or legatee, or the attorney for such heir, devisee, or legatee, may serve upon the executor or administrator (or upon the attorney for the executor or administrator) and file with the clerk of the court wherein administration of such estate is pending, a written request, stating that he desires special notice of any or all of the following mentioned matters, steps or proceedings in the administration of said estate, to wit:

1. Filing of petitions for sales, leases or mortgages of any property of the estate.
2. Filing of accounts.
3. Filing of petitions for distribution.
4. Filing of petitions for partition of any property of the estate.

Such request shall state the postoffice address of such heir, devisee, or legatee, state controller, or his attorney, and thereafter a brief notice of the filing of any of such petitions or accounts, except petitions for sale of perishable property or other personal property, which will incur expense or loss by keeping, shall be addressed to such heir, devisee, or legatee, state controller, or his attorney, at his stated postoffice address, and deposited in the United States postoffice with the postage thereon prepaid, within two days after the filing of such petition or account; or personal service of such notices may be made on such heir, devisee, or legatee, state controller, or his attorney, within said two days and such personal service shall be equivalent to such deposit in the postoffice, and proof of mailing or of personal service must be filed with the clerk before the hearing of such petition or account. If upon the hearing it shall appear to the satisfaction of the court that the said notice has been regularly given, the court shall so find in its order or judgment and such judgment shall be final and conclusive upon all persons. [Amendment approved May 5, 1917; Stats. 1917, p. 276.]

§ 1415. Duties of special administrators. The special administrator must collect and preserve for the executor or administrator, all the goods, chattels, debts, and effects of the decedent, all incomes, rents, issues and profits, claims, and demands of the estate; must take the charge and management of, enter upon, and preserve from damage, waste and injury, the real estate, and for any such and all necessary purposes may commence and maintain or defend suits and other legal proceedings as an administrator; he may sell such perishable

property as the court may order to be sold, and exercise such other powers as are conferred upon him by his appointment, but in no case is he liable to an action by any creditor on a claim against the decedent. The special administrator may commence and maintain all proceedings, do all acts, and apply for and obtain all orders and decrees, authorized or provided for, in or by article five of chapter seven of title eleven of this code, in the same manner and with like effect as an executor or administrator. [Amendment approved April 6, 1917; Stats. 1917, p. 81.]

§ 1418. Payment of secured debts by special administrators. If it shall appear by the verified petition of any special administrator, or other person interested in any estate in the charge of any special administrator, that any of the property of said estate is subject to any mortgage, lien or deed of trust, to secure the payment of money, and that any amount so secured, either principal or interest, is past due and unpaid; that the holder of the security threatens or is about to enforce or foreclose the same and that the said property exceeds in value the amount of the entire obligation thereon, and an order is asked directing or permitting said special administrator to pay all or any part of the amount so secured, the court or a judge thereof shall fix a time for the hearing of said petition and shall direct notice of not less than ten days to be given by posting in three public places and by personal service on all parties who have appeared or their attorneys. At the time so appointed, if the allegations of such petition shall be proven to the satisfaction of the court and it shall appear to be for the best interests of said estate, the court may order the special administrator to pay interest or other portions or the whole of the secured debt, and, in its discretion, may direct the special administrator to take proceedings under article five of chapter seven of title eleven of this code to secure funds for such purpose. Any such order for payment of interest may also direct that interest not yet accrued be paid as it becomes due and such order shall remain in effect and cover such future interest until and unless thereafter for good cause set aside or modified by the court upon similar petition and notice to that hereinabove provided. [New section added April 6, 1917; Stats. 1917, p. 82.]

§ 1444. Appraisers of estates of deceased persons. To make the appraisement, the court, or a judge thereof, must appoint three disinterested persons, one of whom must be one

of the inheritance tax appraisers provided for by law (any two of whom may act, provided that one of them be the inheritance tax appraiser); provided, that the court may, in its discretion, appoint said inheritance tax appraiser as sole appraiser to appraise said estate. Each of said appraisers is entitled to receive, from each estate he appraises, as compensation for his services, not to exceed five dollars per day (together with his actual and necessary expenses), to be allowed by the court or judge. The appraisers or appraiser must, with the inventory, file a verified account of their or his services and disbursements. If any part of the estate is in any other county than that in which letters issued, an appraiser or appraisers thereof may in the same manner as above provided, be appointed, either by the court or judge having the jurisdiction of the estate, or by the court or judge of such other county, on request of the court or judge having jurisdiction. No clerk or deputy, nor any person related by consanguinity or affinity to or connected by marriage with, or being a partner or employee of the judge of the court, shall be appointed or shall be competent to act as appraiser in any estate, or matter or proceeding pending before said judge or in said court. [Amendment approved May 10, 1917; Stats. 1917, p. 329.]

§ 1455. Who may collect balances due deceased or insane annuitants from teachers' retirement salary fund. Claim payable by salary fund board on receipt of affidavit. The surviving husband or wife, or the guardian of the estate of any insane or incompetent husband or wife, of any deceased person who had been the recipient of an annuity from the public school teachers' retirement salary fund, or if no husband or wife is living, then the children or the guardian of the estates of any minor or insane or incompetent children of said deceased, or, if no children are living, then the father or mother or the guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the father nor mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect from the public school teachers' retirement salary fund, in the state treasury, any balance of retirement salary accrued to the credit of said deceased annuitant remaining unpaid at the time of death. The public school teachers' retirement salary fund board, upon receiving an affidavit stating that said annuitant is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent hus-

band or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is the child, or that affiants are the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife nor children, and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that the affiants are the brothers and sisters, or the guardians of the estates of the minor, insane or incompetent brothers and sisters, as the case may be, of said decedent, shall, at the next quarterly meeting of said board, when claims for retirement salaries are certified, include and certify a claim in favor of said affiant or affiants for the balance due said decedent, and the controller shall draw his warrant in favor of the affiant or affiants in the same manner as warrants are drawn for the payment of retirement salaries, and the indorsement of such affiant or affiants upon such warrant is sufficient acquittance therefor. [New section added April 6, 1917; Stats. 1917, p. 78.]

§ 1469. Administration of estates not exceeding $1,500 in value. If a deceased person leave a widow or minor child or minor children and upon the return of the inventory of the estate of such deceased person it shall appear to the court or a judge thereof by the verified petition of the personal representative of such deceased person or of his widow or of the guardian of his minor children or of any of them that the net value of the whole estate of said deceased over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of one thousand five hundred dollars, the court, or a judge thereof, shall, by order, require all persons interested to appear on a day fixed to show cause why the whole of said estate should not be assigned for the use and support of the family of the deceased. Notice thereof shall be given and proceedings had in the same manner as provided in section one thousand four hundred sixty-five *a* of this code. If upon the hearing, the court finds that the net value of the estate over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of one thousand five hundred dollars, it shall, by decree for that purpose, assign to the widow of the deceased, if there be a widow, or if there be no widow, then to the minor children of the deceased, if there be minor

children, the whole of the estate, subject to whatever mortgages, liens, or encumbrances there may be upon said estate at the time of the death of said deceased, after the payment of the expenses of the last illness of the deceased, funeral charges, and expenses of administration, and the title thereof shall vest absolutely in such widow, if there is a widow, or if there is no widow, in the minor children or child, subject to whatever mortgages, liens or encumbrances there may be upon said estate at the time of the death of the deceased, and there must be no further proceedings in the administration, unless further estate be discovered. [Amendment approved April 25, 1917; Stats. 1917, p. 195.]

§ 1475. **Setting off of recorded homestead.** If the homestead selected and recorded prior to the death of the decedent be returned in the inventory appraised at not exceeding five thousand dollars in value, or was previously appraised as provided in the Civil Code, and such appraised value did not exceed that sum, the superior court must, by order, set it off to the persons in whom title is vested by the preceding section. If there be subsisting liens or encumbrances on the homestead, the claims secured thereby must be presented and allowed as other claims against the estate. If the funds of the estate be adequate to pay all claims against the estate, the claims so secured must be paid out of such funds. If the funds of the estate be not sufficient for that purpose, the claims so secured shall be paid proportionately with other claims allowed, and the liens or encumbrances on the homestead shall only be enforced against the homestead for any deficiency remaining after such payment; provided, that it shall be the duty of any executor or administrator, within sixty days after the first publication of notice to creditors, to notify in writing the record holder of any such lien or encumbrance upon real property subject to a declaration of homestead of the death of the testator or intestate, and unless so notified, the rights of the holder of such lien or encumbrance shall not be affected by his failure to present such claim as hereinabove required. [Amendment approved May 21, 1917; Stats. 1917, p. 783.]

§ 1663. **Partial distribution of estates of deceased persons. Costs.** Where the time for filing or presenting claims has expired, and all claims that have been allowed have been paid, or are secured by a mortgage upon real estate sufficient to pay them, and the estate is not in a condition to be finally closed and distributed, the executor or administrator, or co-

executor or coadministrator, may present his petition to the court for ratable payment of the legacies, or ratable distribution of the estate to all the heirs, legatees, devisees, or their assignees, grantees or successors in interest. Notice of such application must be given to all persons interested in the estate, in the same manner that notice is required to be given of the settlement of the account of an executor or administrator. Any person interested in the estate may appear at the time named and resist the application. If, at the hearing, it appears that the allegations in the petition of said executor, administrator, coexecutor, or coadministrator, are true, and the court is satisfied that no injury can result to the estate by granting the petition, the court must make an order directing the executor or executors, administrator or administrators, as the case may be, to deliver to the heirs, legatees, devisees, or to their assigns, grantees or successors in interest, the whole portion of the estate to which they may be entitled, or only a part thereof, designating it.

If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of the proceedings under this section must be paid by the estate, excepting that in case a partition is necessary, the costs of such partition must be apportioned amongst the parties interested in such partition. [New section added May 17, 1917; Stats. 1917, p. 575.]

§ 1714. Motion for new trial in probate proceedings. The provisions of part two of this code, relative to new trials and appeals, except in so far as they are inconsistent with the provisions of this title, apply to the proceedings mentioned in this title; provided, that hereafter a motion for a new trial in probate proceedings can be made only in cases of contests of wills, either before or after probate, in proceedings under section one thousand six hundred sixty-four of this code and in those cases where the issues of fact, of which a new trial is sought, were tried by a jury or were of such character as to entitle the parties to have them tried by a jury whether or not they were so tried. [Amendment approved April 13, 1917; Stats. 1917, p. 117.]

§ 1723. Persons dying who owned life estate or homesteads. Interested persons may petition. Decree of court. Inheritance tax. If any person has died or shall hereafter die who at the time of his death was the owner of a life estate which terminates by reason of the death of such person; or if such

person at the time of his death was one of two or more persons holding land in joint tenancy, which land by reason of his death vests absolutely in the surviving joint tenant or tenants; or if such person at the time of his death was the spouse of a person owning land upon which either spouse had declared a homestead, the homestead interest of which deceased person absolutely terminated by reason of his death; any person interested in the land, or in the title thereto, in which such estate or interest was held, may file in the superior court of the county in which the land or any part thereof is situated, his verified petition setting forth such facts, and thereupon and after such notice by publication or otherwise as the court may order; provided, that notice shall be given in each county where any part of said land is situated in the same manner as in the county where said petition is filed, the court shall hear such petition and the evidence offered in support thereof, and if upon such hearing it shall appear that such estate or interest so terminated or vested, the court shall make a decree to that effect, and thereupon a certified copy of such decree shall be recorded in the office of the county recorder of each county in which any part of said land is situated, and thereafter shall have the same effect as a decree of final distribution so recorded; provided, that if such estate or interest was a joint tenancy, any inheritance tax which is due and payable by reason of the death of such deceased person, must be fully paid before such decree is made; and the amount of said inheritance tax shall be fixed, and said tax shall be paid, in the same manner as in the case of an administration upon the estate of a decedent. [Amendment approved May 31, 1917; Stats. 1917, p. 1397.]

§ 1764a. Appointment as guardian. In awarding letters of guardianship of the person and estate, or person or estate, of an insane or incompetent person, the court shall appoint as guardian such person as may have been designated pursuant to section two hundred forty-two of the Civil Code, in which cases such persons shall be appointed unless good cause to the contrary be shown. [New section added May 17, 1917; Stats. 1917, p. 644.]

§ 1881. Cases in which witnesses may not be examined. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:

1. **Husband and wife.** A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other; or in an action brought by husband or wife against another person for the alienation of the affections of either husband or wife or in an action for damages against another person for adultery committed by either husband or wife.

2. **Attorney and client.** An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment; nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of his employer, concerning any fact the knowledge of which has been acquired in such capacity.

3. **Confessor and confessant.** A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

4. **Physician and patient.** A licensed physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient; provided, however, that after the death of the patient, the executor of his will, or the administrator of his estate, or the surviving spouse of the deceased, or, if there be no surviving spouse, the children, of the deceased personally, or, if minors, by their guardian, may give such consent, in any action or proceeding brought to recover damages on account of the death of the patient; provided, further, that where any person brings an action to recover damages for personal injuries, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said person and whose testimony is material in said action shall testify; and provided, further, that the bringing of an action, to recover for the death of a patient, by the executor of his will, or by the administrator of his estate, or by the surviving

spouse of the deceased, or if there be no surviving spouse, by the children personally, or, if minors, by their guardian, shall constitute a consent by such executor, administrator, surviving spouse, or children or guardian, to the testimony of any physician who attended said deceased.

5. **Public officer.** A public officer cannot be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure. [Amendment approved May 26, 1917; Stats. 1917, p. 954.]

§ 2024. Deposition of witnesses out of state, how taken. The deposition of a witness out of this state may be taken upon a commission issued from the court under the seal of the court, upon an order of the court, or a judge or a justice thereof, on the application of either party, upon five days' previous notice to the other. If the court is a justices' court, the commission must have attached to it a certificate of the clerk of the superior court of the county in which such justices' court is held, under the seal of such superior court, to the effect that the person issuing the same was an acting justice of the peace at the date of the commission. If issued to any place within the United States, it may be directed to a person agreed upon by the parties, or if they do not agree, to any notary public, judge or justice of the peace or commissioner selected by the court or judge or justice issuing it. If issued to any country out of the United States, it may be directed to a minister, ambassador, consul, vice-consul, or consular agent of the United States, or judge of a court of record in such country, or to any person agreed upon by the parties. [Amendment approved May 5, 1917; Stats. 1917, p. 280.]

§ 2055. Examination of adverse party. A party to the record of any civil action or proceeding or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent or managing agent of any corporation which is a party to the record, may be examined by the adverse party as if under cross-examination, subject to the rules applicable to the examination of other witnesses. The party calling such adverse witness shall not be bound by his testimony, and the testimony given by such witness may be rebuttel by the party calling him for such examination by other evidence. Such witness, when so called, may be examined by his own counsel, but only as to the matters testified to on such examination. [New section added April 5, 1917; Stats. 1917, p. 58.]

THE

CIVIL CODE

OF THE

STATE OF CALIFORNIA.

AMENDMENTS OF 1917.

§ 137. Action for permanent support of wife. When an action for divorce is pending, the court may, in its discretion, require the husband to pay as alimony any money necessary to enable the wife to support herself and her children, or to prosecute or defend the action. When the husband willfully deserts the wife or when the husband willfully fails to provide for the wife or when the wife has any cause of action for divorce as provided in section ninety-two of this code, she may, without applying for divorce, maintain in the superior court an action against him for permanent support and maintenance of herself or of herself and children. During the pendency of such action the court may, in its discretion, require the husband to pay as alimony any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The court, in granting the wife permanent support and maintenance of herself, or of herself and children, in any such action, shall make the same disposition of the community property and of the homestead, if any, as would have been made if the marriage had been dissolved by the decree of a court of competent jurisdiction. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court. [Amendment approved April 5, 1917; Stats. 1917, p. 35.]

§ 164. What is community property. All other property acquired after marriage by either husband or wife, or both, including real property situated in this state, and personal property wherever situated, acquired while domiciled elsewhere, which would not have been the separate property of either if

acquired while domiciled in this state, is community property; but wherever any property is conveyed to a married woman by an instrument in writing, the presumption is that the title is thereby vested in her as her separate property. And in case the conveyance is to such married woman and to her husband, or to her and any other person, the presumption is that the married woman takes the part conveyed to her, as tenant in common, unless a different intention is expressed in the instrument, and the presumption in this section mentioned is conclusive in favor of a purchaser or encumbrancer in good faith and for a valuable consideration. And in cases where married women have conveyed, or shall hereafter convey, real property which they acquired prior to May nineteenth, one thousand eight hundred eighty-nine, the husband, or their heirs or assigns, of such married women, shall be barred from commencing or maintaining any action to show that said real property was community property, or to recover said real property, as follows: As to conveyances heretofore made, from and after one year from the date of the taking effect of this act; and as to conveyances hereafter made, from and after one year from the filing for record in the recorder's office of such conveyances, respectively. [Amendment approved May 23, 1917; Stats. 1917, p. 827.]

§ 172. Management of community personal property. The husband has the management and control of the community personal property, with like absolute power of disposition, other than testamentary, as he has of his separate estate; provided, however, that he cannot make a gift of such community personal property, or dispose of the same without a valuable consideration, or sell, convey, or encumber the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the wife or minor children that is community, without the written consent of the wife. [Amendment approved May 23, 1917; Stats. 1917, p. 829.]

§ 172a. Management of community real property. The husband has the management and control of the community real property, but the wife must join with him in executing any instrument by which such community real property or any interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered; provided, however, that the sole lease, contract, mortgage or deed of the husband, holding the record title to community real property, to a lessee, purchaser or encumbrancer, in good faith without knowledge of

the marriage relation shall be presumed to be valid; but no action to avoid such instrument shall be commenced after the expiration of one year from the filing for record of such instrument in the recorder's office in the county in which the land is situate. [New section added May 23, 1917; Stats. 1917, p. 829.]

§ 224. Consent to adoption of children. Father or mother deprived of control of child. Father or mother declared insane. Deserted child. Child relinquished for purpose of adoption. Child in orphan asylum. A legitimate child cannot be adopted without the consent of its parents if living, nor an illegitimate child without the consent of its mother if living, except that consent is not necessary in the following cases, to wit:

1. From a father or mother if deprived of civil rights.

2. From a father or mother adjudged guilty of adultery or cruelty and for either cause divorced.

3. From a father or mother who has been judicially deprived of the custody and control of such child on the ground of abandonment, cruelty, neglect or habitual intemperance, either by order of the juvenile court declaring said child to be free from the custody and control of its parents as provided in the juvenile court law of the state of California, approved June 5, 1915, and any act or acts superseding or amending same, or by order of the juvenile court of the county, where such child was left in the care and custody of another by its parent or parents, without any provisions for its support, for the period of one year, determining such child to be an abandoned child as defined in said juvenile court law; provided, however, that said juvenile court shall never make such order of abandonment without first giving notice of said abandonment proceeding by personal service of citation or other court process on the parent or parents or person having the custody of such child residing within the state, if their residence is known, and also such other or further notice to said parent or parents or person having the custody of such child, or other person or persons as the court may require, or by order of any other court of competent jurisdiction.

4. From a father or mother who has been declared either feeble-minded or insane by the state commission in lunacy or by three competent persons appointed by said commission; provided, that if so declared insane, said father or mother shall have subsequently been determined to be incurably insane by the superior court of the county where he or she resides.

From a father or mother of any child deserted by its parents without provision for their identification.

From a father or mother of any child relinquished by its parent or parents for the purpose of adoption expressed in writing signed and acknowledged by such parent or parents before an officer authorized to take acknowledgments, or signed by such parent or parents before two subscribing witnesses and acknowledged by such parent or parents before the secretary of any organization or society engaged in the work of placing dependent or deserted children into homes in this state, which organization or society has obtained a permit therefor, duly executed in writing, from the state board of charities and corrections, and when a copy of this relinquishment shall have been filed with the state board of charities and corrections prior to the commencement of any adoption proceedings affecting such child.

Any child, the consent of whose parents is not necessary for its adoption within the meaning of this section maintained by or in the custody of any orphan asylum within this state, any charitable organization or society receiving state aid or receiving commitments from the juvenile court, may be adopted with the consent of the president of such orphan asylum, charitable organization or society, or with the consent of such officer as may be authorized by the directors or managers of such asylum, organization or society to consent to adoption in such cases. Any orphan child for whose support no provision has been made by any person for a period of one year, but who has been maintained during said year, by or in the custody of any orphan asylum within this state, any charitable organization or society receiving state aid or receiving commitments from the juvenile court may be adopted with the consent of the president of such orphan asylum, charitable organization or society or with the consent of such officer as may be authorized by the directors or managers of such asylum, organization or society to consent to adoption in such cases. [Amendment approved May 19, 1917; Stats. 1917, p. 770.]

§ 242. Appointment by will or deed of guardian. A guardian of the person or estate, or of both, of an insane or incompetent person may be appointed by will or deed, to take effect upon the death of the person appointing:

1. If the insane or incompetent person be unmarried, or be a person whose marriage has been annulled or dissolved by death or divorce, by the father, with the written consent of

the mother, or by either parent if the other be dead or incapable of consent.

2. If the insane or incompetent person be married and a person whose marriage has not been annulled or dissolved by divorce, then by the spouse. [New section added May 17, 1917; Stats. 1917, p. 645.]

§ 290a. Certificate of approval of superintendent of banks. Before any corporation, authorized in its articles of incorporation to conduct the business of acting as executor, administrator, guardian of estates, assignee, receiver, depositary, or trustee under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, or to engage in the business of banking, or of receiving the money of others on deposit, may file with the secretary of state a certified copy of its articles of incorporation, or of a certificate of extension of its term of existence, or of a certificate increasing or decreasing the number of its directors, or of a certificate increasing or decreasing its capital stock, or of its amended articles of incorporation, or of its articles of incorporation and consolidation, there must be attached thereto the certificate of approval of the superintendent of banks; provided, that this section shall not apply to any corporation authorized to engage in the business of receiving and holding in escrow money or its equivalent, pending investment in real estate or securities for or on account of its principal, or to act as trustee under deeds of trust given solely for the purpose of securing obligations for the repayment of money other than corporation bonds, nor shall such corporations be subject to the supervision of the superintendent of banks. [Amendment approved May 17, 1917; Stats. 1917, p. 621.]

§ 309. Limitations on directors of corporations. Liability. Pending rights not affected. Sec. 1. Unless they shall have been first permitted or authorized so to do by the commissioner of corporations, directors of corporations must not make dividends except from the surplus profits arising from the business thereof; nor must they create any debts beyond their subscribed capital stock; nor must they divide, withdraw, or pay to the stockholders, or any of them, any part of the capital stock, except as hereinafter provided, nor reduce or increase the capital stock, except as provided in section three hundred fifty-nine of this code. For a violation of the provisions of this section, the directors under whose administration the same may have happened (except those who may have caused their

dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen) are, in their individual or private capacity, jointly and severally liable to the corporation, and to the creditors thereof, to the full amount of the capital stock so divided, withdrawn, paid out, or reduced or debt contracted. Nothing herein prohibits a division and distribution of the capital stock of any corporation which remains after the payment of all its debts, upon its dissolution, or the expiration of its term of existence.

Sec. 2. No right, cause of action, or liability now existing or any action or proceeding now pending, shall be affected by this act and such right, cause of action or liability may be enforced and such action or proceeding may be prosecuted in the same manner and with the same effect as if this act had not been passed; excepting only the liability of a director of a corporation heretofore incurred shall not exist in any case where all of the debts and liabilities of the corporation to creditors having been paid, the capital stock divided, withdrawn, or paid out constituted all of the capital stock of the corporation and the same was paid out, withdrawn, or divided with the consent of all of the stockholders to or among themselves. [Amendment approved May 18, 1917; Stats. 1917, p. 657.]

§ 321a. Change of principal place of business. Procedure. Every corporation that has been or may be created under the general laws of this state may change its principal place of business from one place to another in the same county, or from one city or county to another city or county within this state. Before such change is made, the consent in writing, of the holders of two-thirds of the capital stock of the corporation must be obtained and filed in its office; or if the corporation has no capital stock, then the consent in writing of two-thirds of the members thereof, must be obtained and filed in its office. When such consent is obtained and filed, notice of the intended removal or change must be published, at least once a week, for three successive weeks, in some newspaper published in the county, wherein said principal place of business is situated, if there is one published therein; if not, in a newspaper of an adjoining county, giving the name of the county or city where it is situated and that to which it is intended to remove it. Whenever any such change is made, a copy of the resolution or action of the board of directors authorizing the same together with a copy of an affidavit of the publication above

required, all duly certified by the president and secretary of the corporation with the corporate seal affixed shall be filed in each office where the original articles of incorporation are, or any copy thereof is required to be filed. This section shall not be construed to require such consent, notice or publication in the case of any such removal from one location to another in the same city, town or village. [Amendment approved May 5, 1917; Stats. 1917, p. 252.]

§ 322. **Liability of stockholders in corporations.** Stockholders of corporations shall be liable for the payment of corporate debts and liabilities as follows:

1. **Corporations not limited.** Each stockholder of a corporation, other than a corporation hereafter organized under the laws of this state which shall adopt and use as the last word of its corporate name the word "Limited," or its abbreviation, "Ltd.," is individually and personally liable for such proportion of all its debts and liabilities contracted or incurred during the time he was a stockholder as the amount of stock or shares owned by him at the time the debt or liability was incurred bears to the whole of the subscribed capital stock or shares of the corporation; and such liability is not released by any subsequent transfer of stock. If any stockholder pays his proportion of any debt due from the corporation, incurred while he was such stockholder, he is relieved from any further personal liability for such debt; and if an action has been brought against him upon such debt, it must be dismissed as to him upon his paying the costs or such proportion thereof as may be properly chargeable against him.

2. **Corporation without capital stock.** In a corporation having no capital stock, each member is individually and personally liable for an equal share of its debts and liabilities.

3. "**Limited**" **corporation.** In a corporation hereafter organized under the laws of this state, having a capital stock, and which shall adopt and use as the last word of its corporate name, the word "Limited," or its abbreviation, "Ltd.," if its subscribed and issued shares have not been fully paid, in money paid, labor done, or property actually received by the corporation, and the capital paid in shall be insufficient to satisfy its debts and obligations, each stockholder shall be liable to the creditors of the corporation for an amount equal to that not paid up on the shares held by him, or such proportion of that sum as shall be required to satisfy such debts and obligations; provided,

that no judgment upon such liability shall be satisfied out of the property of such stockholder until judgment upon the debt or obligation upon which such liability is founded shall have been first entered against the corporation, and an execution thereon shall have been returned unsatisfied in whole or in part; and the enforcement of any judgment against the stockholder, and of any execution levied thereunder, shall be stayed until such return shall have been made. Any stockholder in such corporation who shall pay any debt or obligation for which he is made liable by the provisions of this subdivision of this section, may recover the amount so paid in an action against the corporation, in which action only the property of the corporation shall be taken in satisfaction of any judgment obtained therein, and not the property of any stockholder. Any amount so paid by such stockholder, and not repaid to him by the corporation or recovered in such action, shall be considered as having been paid on his shares.

4. **Foreign corporation. Joint or several actions by creditor. Application of "stockholder" and "member." Trust funds.** The liability of each stockholder of a corporation formed under the laws of any other state or territory of the United States, or of any foreign country, and doing business within this state, is the same as the liability of a stockholder of a corporation created under the constitution and laws of this state.

Any creditor of a corporation may commence joint or several actions against any of its stockholders or members for the amount or proportion of his claim payable by each; and in such action the court must ascertain the amount or the proportion of the claim or debt for which each defendant is liable, and a several judgment must be rendered against each, in conformity therewith. The terms "stockholder" and "member," as used in this section, applies not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock or of a membership, although the same appears on the books in the name of another; and also to every person who has advanced the installments or purchase money of stock or a membership in the name of a minor, so long as the latter remains a minor; and also to every guardian, or other trustee, who voluntarily invests any trust funds in the stock or membership. Trust funds in the hands of a guardian, or trustee, are not liable under the provisions of this section by reason of any such investment; nor must the person for whose benefit the invest-

ment is made be responsible in respect to the stock until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making the investment continues until that period. Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder within the meaning of this section, except in the cases above mentioned, so as to charge him with any proportion of the debts or liabilities of the corporation; but the pledgor, or person or estate represented, is to be deemed the stockholder, as respects such liability.

The act amending § 322 of the Civil Code also contained the following provision.

§ 2. **In effect when.** This act shall take effect and be in force upon the approval and ratification by the people of an amendment to section three of article twelve of the constitution of this state submitted by the forty-second session of the legislature to the people; and if such amendment so submitted shall not be so approved and ratified, this act shall thereafter be void. [Amendment approved May 21, 1917; Stats. 1917, p. 786.]

§ 361. Changing number of directors of corporations. Any corporation or association may increase or diminish the number of its directors or trustees by the vote or written assent of stockholders representing a majority of its subscribed capital stock, or, if it has no capital stock, by the vote or written assent of a majority of the members. A certificate over the corporate seal, setting forth the action taken by the stockholders, or members, and stating the new number of directors, shall be signed by the president and secretary of such corporation or association, and filed in the office of the county clerk of the county where its original articles of incorporation were filed, and a copy of said certificate, certified by such county clerk, shall be filed in the office of the secretary of state, whereupon the number of directors or trustees shall be changed as stated in said certificate. This section shall apply to all corporations existing under the laws of the state of California, whether organized and incorporated prior to the enactment of this code, or subsequent thereto. [Amendment approved May 10, 1917; Stats. 1917, p. 327.]

§ 377. Records required to be kept by corporations. All corporations for profit are required to keep a record of all

their business transactions; a journal of all meetings of their directors, members, or stockholders, with the time and place of holding the same, whether regular or special, and if special, its object, how authorized, and the notice thereof given. The record must embrace every act done or ordered to be done; who were present, and who absent; and, if requested by any director, member, or stockholder, the time shall be noted when he entered the meeting or obtained leave of absence therefrom. On a similar request, the ayes and noes must be taken on any proposition, and a record thereof made. On similar request, the protest of any director, member, or stockholder, to any action or proposed action, must be entered in full. Such records shall be open to the inspection of any legislative committee, board, commission, or officer of the state of California whose duty it is to inspect or examine the same, and of any director, member, or bona fide stockholder thereof; provided, however, the board of directors may, by unanimous vote, deny such examination or inspection to a stockholder who demands the same with intent to use to the injury of the corporation the information to be acquired thereby, and a satisfactory showing of such intent shall be a complete defense to any action or proceeding brought by any such person to compel the officers of any such corporation to submit any of such records for his inspection or examination. [Amendment approved May 31, 1917; Stats. 1917, p. 1407.]

§ 378. **Stock and transfer books.** In addition to the records required to be kept by the preceding section, corporations for profit must keep a book, to be known as the "stock and transfer book," in which must be kept a record of all stock; the names of the stockholders or members, alphabetically arranged; installments paid or unpaid; assessments levied and paid or unpaid; a statement of every alienation, sale, or transfer of stock made, the date thereof, and by and to whom; and all such other records as the by-laws prescribe. Corporations for religious and benevolent purposes must provide in their by-laws for such records to be kept as may be necessary. Such stock and transfer book shall be open to the inspection of any officer, bona fide stockholder, member, or creditor of the corporation. [Amendment approved May 31, 1917; Stats. 1917, p. 1407.]

§ 400. **Directors of corporation are trustees of creditors.** Unless other persons are appointed by the court, the directors or managers of the affairs of a corporation at the time of its dissolution are trustees of the creditors and stockholders or

members of the corporation dissolved, and have full powers to settle the affairs of the corporation, collect and pay outstanding debts, sell the assets thereof in such manner as the court shall direct, and distribute the proceeds of such sales and all other assets to the stockholders. Such trustees shall have authority to sue for and recover the debts and property of the corporation, and shall be jointly and severally personally liable to its creditors and stockholders or members, to the extent of its property and effects that shall come into their hands. Death, resignation or failure or inability to act shall constitute a vacancy in the position of trustee, which vacancy shall be filled by appointment by the superior court upon petition of any person or creditor interested in the property of such corporation. Such trustees may be sued in any court in this state by any person having a claim against such corporation or its property. Trustees of corporations heretofore dissolved or whose charters have heretofore been forfeited by law shall have and discharge in the same manner and under the same obligations, all the powers and duties herein prescribed. Vacancies in the office of trustees of such corporations shall be filled as hereinbefore provided. [Amendment approved May 11, 1917; Stats. 1917, p. 380.]

§ 405. **Designation of person upon whom process may be served. Service on secretary of state, when valid.** [Repealed 1917; Stats. 1917, p. 381.]

§ 406. **Foreign corporations, statute of limitations in favor of. Proof of corporate existence. Change of designation.** [Repealed 1917; Stats. 1917, p. 381.]

§ 408. **Foreign corporations to file certified copies of articles of incorporation.** [Repealed 1917; Stats. 1917, p. 381.]

§ 409. **Foreign corporations, fees to be paid by on filing certified copies of articles of incorporation.** [Repealed 1917; Stats. 1917, p. 381.]

§ 410. **Foreign corporations failing to comply with law.** [Repealed 1917; Stats. 1917, p. 381.]

§ 421. **Legal investments of insurance companies.** Corporations organized under the laws of this state for the transaction of any kind of insurance business authorized by such laws may invest their capital, surplus and accumulations in

the purchase of, or loans upon any of the securities specified in subdivisions one to five inclusive of this section.

1. **U. S. bonds.** Bonds or interest-bearing notes or obligations of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

2. **State bonds.** Bonds of this state or those for which the faith and credit of the state of California are pledged for the payment of principal and interest and bonds of any other state in the United States that has not, within five years next preceding such investment by such insurance company, defaulted in payment of any part of either principal or interest due upon any legally authorized bond issue.

3. **County, etc., bonds.** Bonds or interest-bearing notes or obligations issued under authority of law by any county, municipality or school district in this state, or in any other state or territory of the United States; provided, that said county, municipality or school district or the state or territory in which it is located has not, within two years next preceding such investment by such insurance company, defaulted in payment of any part of either principal or interest due upon any legally authorized bond issue.

4. **Road division, etc., bonds.** Bonds of any permanent road division in this state, and any irrigation district bonds which the law may now or hereafter authorize as legal investments for insurance companies; provided, that the total amount of bonds issued by any such irrigation district does not exceed sixty per centum of the aggregate market value of the lands within such district, and of the water, water rights, canals, reservoirs, reservoir sites and irrigation works owned or to be acquired or constructed with the proceeds of any such bonds, by such district, such facts in reference to bonds of irrigation districts to be determined by a commission now or hereafter authorized by law to ascertain and report upon such facts.

5. **First mortgage notes.** (a) Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; provided, that the principal so loaned or the entire note or bond issue so secured shall not exceed sixty per centum of the market value of such real estate, or of such real estate with improvements taken as security at the date of investment; provided, also, in case said loan is made, or said note or bond issue created for a building loan on real estate, that at no time shall the principal so loaned

or the entire outstanding note or bond issue exceed sixty per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security; or

(b) **Notes guaranteed by policy of mortgage insurance.** Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of chapter eight of title two of part four of division first of the Civil Code; provided, that no insurance corporation shall make any investment in any of the securities specified in subdivisions one, two, three, four and five of this section in an amount exceeding the market value of such security, at the date of such investment.

6. **Investment of balance of capital. Record of investment.** Corporations organized for and engaged in the business of fire, life or marine insurance, may, after the investment of two hundred thousand dollars, and corporations organized for and engaged in the business of transacting any other kind of insurance authorized by law, except mortgage insurance, may also, after the investment of one hundred thousand dollars in any of the securities specified in subdivisions one, two, three, four and five of this section, invest the balance of their capital, surplus and any accumulations in the purchase of or loans upon the stock of any corporation (except a mining corporation) organized and carrying on business under the laws of this state, or the laws of the United States, which stocks have, at the date of such investment, a market value of not less than their paid-in value, or in the purchase of, or loans upon, interest-bearing bonds issued by a corporation organized under the laws of any state or territory in the United States, which corporation has not, within five years next preceding the date of such investment, defaulted in payment of any part of either principal or interest of any bond of the issue of which the bonds which comprise such investment form a part, and which stocks or bonds must, in each case, be rated as first-class securities; provided, that any investment made, under the provisions of this subdivision of this section shall be approved by vote of two-thirds of all the directors of the investing corporation. Such approval shall be entered upon the records or minutes of such corporation. Such entry must show the fact of making such investment, the amount thereof, the name of each director voting to approve the same, the amount, character and value of the security purchased or taken as collateral,

and if the investment be a loan, the name of the borrower, the rate of interest thereon, and the date when the loan will become due or payable. It shall be the duty of the secretary of any such investing corporation to report in writing during the months of January and July of each year to the insurance commissioner, the data above set forth respecting each such investment, and the insurance commissioner may, if any such investment is not approved by him, require the corporation to sell or dispose of the same.

7. **Policy loans.** Life insurance companies may also loan upon their own policies; provided, that the amount so loaned upon each policy shall not exceed the reserve against said policy at the time said loan is made; provided, further, that no policy loans whatever shall ever be used as security which may be deposited with the insurance commissioner under section six hundred thirty-four of the Political Code; and provided, further, that whenever any such loan in any amount is made on a policy registered with the insurance commissioner under said section six hundred thirty-four of the Political Code, such registration shall be forthwith canceled.

8. **Securities issued in foreign country.** Any insurance company of this state doing business in any foreign country may invest so much of its funds as are required to meet its obligation incurred in such foreign country and in conformity to the laws thereof, in the same kind of securities issued in such foreign country that such company is by law allowed to invest in this state, and subject to the limitations imposed by law in this state. [Amendment approved May 28, 1917; Stats. 1917, p. 976.]

§ 453e. Corporations for insurance on assessment plan. Investment in bonds. Certificate of insurance commissioner. Corporations may be formed to carry on the business of mutual insurance upon the assessment plan, and are subject only to the provisions of this chapter. No such corporation may issue contracts of insurance until at least five hundred persons have applied, in writing, to the insurance commissioner, for membership or insurance therein, and have paid to the treasurer of such corporation the sum of twenty-five thousand dollars. This sum must be invested in bonds or securities, approved by the insurance commissioner of this state, or deposited in some bank in this state where it will earn interest. Said bonds or securities, or evidence of such deposit, must be placed, through the insurance commissioner

of this state, with the state treasurer, and the principal sum must be held in trust for the contract holders of such corporation, with the right in the corporation to exchange said bonds, securities, or evidence of bank deposit for others of like value. Such corporation must also, as a condition precedent to issuing any contracts of insurance, obtain the written certificate of the insurance commissioner that it has complied with the requirements of this chapter; and that the name of the corporation is not the same as that of any other corporation of this or other states, as indicated by the insurance department reports in his office; nor must the commissioner approve any name or title so closely resembling another as to mislead the public. No corporation formed hereunder has legal existence after one year from the date of its articles, unless its organization has been completed and business commenced; nor shall any corporation or individual solicit, or cause to be solicited, any business, until such corporation has complied with the provisions of section six hundred thirty-three of the Political Code. Nothing contained in this chapter shall be construed to exempt any corporation from the provisions of sections two hundred ninety-six and two hundred ninety-nine of this code. [Amendment approved May 26, 1917; Stats. 1917, p. 955.]

§ 594. Incorporation of associations having no fixed place of business. Any association of this state mentioned in title twelve of part four of division first of the Civil Code made up of constituent or member clubs, or other subordinate bodies, having a common periodical or occasional convention or other general assemblage whether of members or delegates, and operating on the federation plan, whether state, district or otherwise, or having no fixed meeting place for such assemblages, or having no fixed office or principal place of business in any one county or city and county or for the meetings of its agencies or committees or officers, and which association determines such place or places from time to time through its agencies and according to its rules and customs, may incorporate under the provisions of said title for purposes other than profit and without capital stock. The articles of incorporation upon there being therein stated any of the matters hereinabove mentioned inconsistent with any part or parts of section two hundred ninety of the Civil Code need not make, as to such inconsistent matters, the statements required by said section; but such articles shall be governed otherwise by said section and the rules of section six hundred three of said code as it now stands, except that the same officers who acted

as such at the meeting authorizing the incorporation shall be the ones to execute the articles and that the word incorporation is to be deemed substituted for the word authority where the latter is used in said section; and provided, further, that it shall be immaterial whether such authorization is made after or before this section goes into effect if the proceedings show it to have been made in view thereof; and, further, that such articles of incorporation, shall set forth a means whereby its office and constitutional principal place of business, which must be in this state, as it exists from time to time, may be ascertained; or must state that same shall be provided by constitution or by-law; and, until such provision is otherwise made, said place shall be the place of business, or if none such the residence, from time to time, in this state of the chief executive officer of the corporation. [New section added May 23, 1917; Stats. 1917, p. 830.]

§ 604a. **Formation of religious corporations. Directors. Attesting of certificate of incorporation. Powers.** For the administration of the temporalities, and for the management of the property and estate of any church, diocese, synod, or district or other organization of such church, or for the administration of the temporalities, and for the management of the property and estate of any religious society or order, community, or other organization of said religious society or order, any church, diocese, synod or other organization of such church, or any community or other council, or other organization of any such religious society or order, or of any community or other organization of such religious society or order, may elect directors and become an incorporation in the manner prescribed in this title, and with all the powers and duties and for the uses and purposes in this title provided for benevolent or religious incorporations, and subject to all the limitations and provisions in said title prescribed, except as otherwise provided in this section; provided, that directors of any such incorporation may be elected and by-laws for its government may be made and amended in accordance with the constitution, by-laws, discipline, rules and regulations of such church, diocese, synod, or district or other organization of such church, or in accordance with the constitution, by-laws, discipline, rules and regulations of such religious society or order, or of any community, or other organization of such religious society or order, at any meeting; and provided, the certificate of incorporation and of the election of directors to be filed shall be sufficiently attested by the signatures of the presiding offi-

cer, president, or other head, and acting secretary of such church, diocese, synod, or other organization of such church, or of the community or other council or other organization of such society or order, and that the limitations of section five hundred ninety-five shall not apply to such corporations heretofore organized or formed, or hereafter organized under this section when land is held or used for churches, hospitals, schools, colleges, asylums, or parsonages. Every such corporation heretofore organized or formed, or hereafter organized pursuant to the provisions of this section shall have power to contract in the same manner and to the same extent as a natural person, and may sue and be sued, and may defend in all courts and places in all matters and proceedings whatsoever and shall have authority to borrow money, give promissory notes therefor, and secure the payment thereof by mortgage or other lien upon property real or personal, and may buy, sell, lease, mortgage and deal in real and personal property in the same manner that a natural person may, subject, however, to the provisions of section five hundred ninety-eight of this code; and may receive bequests and devises for its own use, or upon trusts, to the same extent as a natural person, subject, however, to the provisions of section one thousand three hundred thirteen of the Civil Code of the State of California and may appoint attorneys in fact. [Amendment approved May 21, 1917; Stats. 1917, p. 784.]

§ 638. **Security for loans. Interest.** For every loan made a note or obligation, expressing and setting forth the exact rate of interest, must be executed by the borrower, secured by a first mortgage or deed of trust upon unencumbered real estate having an appraised value of not less than twenty-five per cent in excess of the face of the loan, except such loans as may be made upon the security of bonds specified in section six hundred forty-seven; or in lieu of a mortgage or deed of trust, loans to the extent of not exceeding ninety per cent of the then withdrawable value, may be made upon the pledge of free shares or certificates as security for their repayment. The board of directors may from time to time fix the rate of interest to be charged on loans. A borrower may at any time repay his loan together with interest or arrears due thereon and upon the surrender of the shares, or certificate pledged as security therefor. [Amendment approved May 19, 1917; Stats. 1917, p. 780.]

§ 715. **Restraints upon alienation.** Except in the single case mentioned in section seven hundred seventy-two, the abso-

lute power of alienation cannot be suspended, by any limitation or condition whatever, for a longer period than as follows:

1. During the continuance of the lives of persons in being at the creation of the limitation or condition; or

2. For a period not to exceed twenty-five years from the time of the creation of the suspension. [Amendment approved May 18, 1917; Stats. 1917, p. 699.]

§ 718. Period of lease of city lots. Property of minor or incompetent. Tide-lands. Purposes for which tide-lands may be leased. No lease or grant of any town or city lot for a longer period than ninety-nine years, in which shall be reserved any rent or service of any kind, shall be valid; provided, that the property of any municipality, or any minor or incompetent person, shall not be leased for a longer period than ten years, excepting that the sewer farm of a municipality and all waters and sewage used or discharged thereon may be leased for a period not exceeding twenty-five years; and excepting that the tide-lands and submerged lands granted to any city by the state, or any lands belonging to such city adjacent to such tide-lands and submerged lands, may be leased for a period not exceeding forty years if the grant from the state of California of the use of said tide-lands and submerged lands does not provide specifically for a term of years for which said lands may be leased. Said tide-lands and submerged lands and lands adjacent thereto can only be leased for industrial uses, the purpose of improvement and development of the harbor of said city, and the construction and maintenance of wharves, docks, piers or bulkhead piers or for other public uses and purposes consistent with the requirements of commerce or navigation at said harbor. [Amendment approved May 21, 1917; Stats. 1917, p. 798.]

§ 1313. Restrictions on devises or bequests for charitable uses. Bequests to state excepted. No estate, real or personal, shall be bequeathed or devised to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, except the same be done by will duly executed at least thirty days before the decease of the testator; and if so made at least thirty days prior to such death, such devise or legacy and each of them shall be valid; provided, that no such devise or bequest shall collectively exceed one-third of the estate of the testator, leaving legal heirs, and in such case a pro rata deduction from such devises or bequests shall be made so as to reduce the aggregate thereof to one-

third of such estate; and all dispositions of property made contrary hereto shall be void, and go to the residuary legatee or devisee, next of kin, or heirs, according to law; and provided, further, that bequests and devises to the state, or to any state institution, or for the use or benefit of the state or any state institution, are excepted from the restrictions of this section. [Amendment approved May 5, 1917; Stats. 1917, p. 272.]

§ 1405. Escheat property. Recovery. Whenever any person dies leaving any property in this state not disposed of by will, and there are no persons entitled to succeed thereto under the laws of this state, the same shall escheat to the state as of the date of the death of the decedent. The property or proceeds of any estate deposited in the state treasury after final decree of distribution or judgment of the superior court by reason of the failure of heirs to make claim thereto may be recovered upon judgment of the superior court or order of the state board of control as provided in the Code of Civil Procedure. [Amendment approved May 5, 1917; Stats. 1917, p. 255.]

§ 1861a. Liens of keepers of furnished apartment houses. Keepers of furnished apartment houses shall have a lien upon the baggage and other property of value belonging to their tenants or guests, which may be in such furnished apartment house, for the proper charges due from such tenants or guests, for their accommodation, rent, services, meals, and such extras as are furnished at their request, and for all moneys expended for them, at their request, and for the costs of enforcing such lien, with the right to the possession of such baggage and other property of value until such charges are paid, and such moneys are repaid; and unless such charges shall be paid and unless such moneys shall be repaid within sixty days from the time when such charges and moneys, respectively, become due, said keeper of a furnished apartment house may sell said baggage and property, at public auction to the highest bidder, after giving notice of such sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of such sale, once every week, for four successive weeks, prior to the date of sale, in a newspaper of general circulation in the county in which said furnished apartment house is situated, and also by mailing, at least fifteen days prior to the date of sale, a copy of such notice addressed to such tenant or guest at his postoffice address, if known, and if not known, such

notice shall be addressed to such tenant or guest at the place where such furnished apartment house is situated; and, after satisfying such lien out of the proceeds of such sale, together with any reasonable costs that may have been incurred in enforcing said lien, the residue of said proceeds of sale, if any, shall, upon demand made within six months after such sale, be paid by said keeper of a furnished apartment house to such tenant or guest; and if not demanded within six months from the date of such sale, said residue, if any, shall be paid into the treasury of the county in which such sale took place; and if the same be not claimed by the owner thereof, or his legal representative, within one year thereafter, it shall be paid into the general fund of the county; and such sale shall be a perpetual bar to any action against said keeper of a furnished apartment house for the recovery of such baggage or property, or of the value thereof, or for any damages growing out of the failure of such tenant or guest to receive such baggage or property. [New section added June 1, 1917; Stats. 1917, p. 1662.]

§ 2767. Disposition by beneficiary of interest in installment. The beneficiary under a policy of life insurance, providing for the payment of the proceeds thereof in periodical installments, may be restrained from disposing of or encumbering his interest in any such installment, prior to the date when it shall become due and payable by the insurer, by a condition or stipulation in the policy. [New section added May 29, 1917; Stats. 1917, p. 1314.]

§ 2924. Transfer, when mortgage, when pledge. Power of sale to be exercised when. Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by actual change of possession, in which case it is to be deemed a pledge.

Where, by a mortgage hereafter created, of any estate in real property, other than an estate at will or for years, less than two, or in any transfer in trust hereafter made of a like estate to secure the performance of an obligation, a power of sale is conferred upon the mortgagee, trustee, or any other person, to be exercised after a breach of the obligation for which such mortgage or transfer is a security, such power shall not be exercised (except where such mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, or to secure the payment of bonds or other

evidences of indebtedness authorized or permitted to be issued by the commissioner of corporations, or is made by a public utility subject to the provisions of the public utilities act), until, (a) the mortgagee or beneficiary shall first record, in the office of the recorder of the county wherein the mortgaged or trust property or some part thereof is situated, a notice of such breach and of his election to sell or cause to be sold such property to satisfy the obligation; (b) not less than three months shall thereafter elapse; and (c) the mortgagee, trustee or other person authorized to make the sale shall give notice of the time and place thereof, in the manner and for a time not less than that required by law for sales of real property upon execution. [Amendment approved May 10, 1917; Stats. 1917, p. 300.]

TITLE XV.

Negotiable Instruments.

Chapter I. Negotiable Instruments in General, §§ 3082–3206.
II. Bills of Exchange, §§ 3207–3264.
III. Promissory Notes and Checks, §§ 3265–3265e.
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CHAPTER I.

Negotiable Instruments in General.

Article I. Form and Interpretation, §§ 3082–3104.
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VII. Notice of Dishonor, §§ 3170–3199.
VIII. Discharge of Negotiable Instruments, §§ 3200–3206.

ARTICLE I.

Form and Interpretation.

§ 3082. Form of negotiable instrument.
§ 3083. Certainty as to sum; what constitutes.
§ 3084. When promise is unconditional.
§ 3085. Determinable future time, what constitutes.
§ 3086. Additional provisions not affecting negotiability.
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§ 3103. Effect of indorsement by infant or corporation.
§ 3104. Forged signature; effect of.

§ 3082. Requirements for negotiable instrument. An instrument to be negotiable must conform to the following requirements:

(1) It must be in writing and signed by the maker or drawer;

(2) Must contain an unconditional promise or order to pay a sum certain in money;

(3) Must be payable on demand, or at a fixed or determinable future time;

(4) Must be payable to order or to bearer; and

(5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

NOTE.—All of Title XV of Part IV of Division Third of the Civil Code, containing Sections 3086 to 3262, inclusive, and relating to negotiable instruments, was repealed by an act approved June 1, 1917 (Stats. 1917, p. 1533), and a new Title XV was adopted in its place. The new title adopted is what is known as the Uniform Negotiable Instruments Law. Crawford, in his work on the Annotated Negotiable Instruments Law, treats this law fully.

§ 3083. Sum payable certain. The sum payable is a sum certain within the meaning of this act, although it is to be paid—

(1) With interest; or

(2) By stated installments; or

(3) By stated installments, with a provision that upon default in payment of any installment or of interest, the whole shall become due; or

(4) With exchange, whether at a fixed rate or at the current rate; or

(5) With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

See note to § 3082.

§ 3084. Unqualified promise unconditional. An unqualified order or promise to pay is unconditional within the meaning of this act, though coupled with—

(1) An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

(2) A statement of the transaction which gives rise to the instrument. But an order or promise to pay out of a particular fund is not unconditional.

See note to § 3082.

§ 3085. Time for payment. An instrument is payable at a determinable future time, within the meaning of this act, which is expressed to be payable—

(1) At a fixed period after date or sight; or

(2) On or before a fixed or determinable future time specified therein; or

(3) On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

See note to § 3082.

§ 3086. Non-negotiable instrument. An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which—

(1) Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or

(2) Authorizes a confession of judgment if the instrument be not paid at maturity; or

(3) Waives the benefit of any law intended for the advantage or protection of the obligor; or

(4) Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

See note to § 3082.

§ 3087. Negotiability not affected. The validity and negotiable character of an instrument are not affected by the fact that—

(1) It is not dated; or

(2) Does not specify the value given, or that any value has been given therefor; or

(3) Does not specify the place where it is drawn or the place where it is payable; or

(4) Bears a seal; or

(5) Designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

See note to § 3082.

§ 3088. Payable on demand. An instrument is payable on demand—

(1) Where it is expressed to be payable on demand, or at sight, or on presentation; or

(2) In which no time for payment is expressed.

Where an instrument is issued, accepted, or indorsed when overdue, it is, as regards the person so issuing, accepting, or indorsing it, payable on demand.

See note to § 3082.

§ 3089. Payable to order. The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of—

(1) A payee who is not maker, drawer, or drawee; or
(2) The drawer or maker; or
(3) The drawee; or
(4) Two or more payees jointly; or
(5) One or some of several payees; or
(6) The holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty.

See note to § 3082.

§ 3090. Payable to bearer. The instrument is payable to bearer—

(1) When it is expressed to be so payable; or
(2) When it is payable to a person named therein or bearer; or
(3) When it is payable to the order of a fictitious or nonexisting person, and such fact was known to the person making it so payable; or
(4) When the name of the payee does not purport to be the name of any person; or
(5) When the only or last indorsement is an indorsement in blank.

See note to § 3082.

§ 3091. Language of instrument. The instrument need not follow the language of this act, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof.

See note to § 3082.

§ 3092. True date. Where the instrument or an acceptance of any indorsement thereon is dated, such date is deemed prima facie to be the true date of the making, drawing, acceptance, or indorsement as the case may be.

See note to § 3082.

§ 3093. Ante or post dating. The instrument is not invalid for the reason only that it is antedated or postdated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

See note to § 3082.

§ 3094. Instrument undated. Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date or issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him, the date so inserted is to be regarded as the true date.

See note to § 3082.

§ 3095. Filling up blanks. Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

See note to § 3082.

§ 3096. Incomplete instrument not delivered. Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery.

See note to § 3082.

§ 3097. Delivery necessary. Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As

between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

See note to § 3082.

§ 3098. Rules of construction. Where the language of the instrument is ambiguous or there are omissions therein, the following rules of construction apply:

(1) Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount;

(2) Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof;

(3) Where the instrument is not dated, it will be considered to be dated as of the time it was issued;

(4) Where there is a conflict between the written and printed provisions of the instrument, the written provisions prevail;

(5) Where the instrument is so ambiguous that there is doubt whether it is a bill or note, the holder may treat it as either at his election;

(6) Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser;

(7) Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

See note to § 3082.

§ 3099. Liability on instrument. No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs

in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

See note to § 3082.

§ 3100. Signature by agent. The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

See note to § 3082.

§ 3101. Liability of agent. Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability.

See note to § 3082.

§ 3102. Signature by "procuration." A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

See note to § 3082.

§ 3103. Indorsement by corporation or infant. The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

See note to § 3082.

§ 3104. Forged signature. When a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party, against whom it is sought to enforce such right, is precluded from setting up the forgery or want of authority.

See note to § 3082.

ARTICLE II.

Consideration.

§ 3105. Presumption of consideration.
§ 3106. Consideration, what constitutes.
§ 3107. What constitutes holder for value.
§ 3108. When lien on instrument constitutes holder for value.
§ 3109. Effect of want of consideration.
§ 3110. Liability of accommodation party.

§ 3105. Presumption of consideration. Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

See note to § 3082.

§ 3106. Consideration, what constitutes. Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes value; and is deemed such whether the instrument is payable on demand or at a future time.

See note to § 3082.

§ 3107. Holder for value. Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who become such prior to that time.

See note to § 3082.

§ 3108. Lien on instrument. Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

See note to § 3082.

§ 3109. Effect of want of consideration. Absence or failure of consideration is matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense pro tanto, whether the failure is an ascertained and liquidated amount or otherwise.

See note to § 3082.

§ 3110. Liability of accommodation party. An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder

for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

See note to § 3082.

ARTICLE III.

Negotiation.

§ 3111. What constitutes negotiation.
§ 3112. Indorsement; how made.
§ 3113. Indorsement must be of entire instrument.
§ 3114. Kinds of indorsement.
§ 3115. Special indorsement.
§ 3116. Blank indorsement; how changed to special indorsement.
§ 3117. When indorsement restrictive.
§ 3118. Effect of restricting indorsement; rights of indorsee.
§ 3119. Qualified indorsement.
§ 3120. Conditional indorsement.
§ 3121. Indorsement of instrument payable to bearer.
§ 3122. Indorsement where payable to two or more persons.
§ 3123. Effect of instrument drawn or indorsed to a person as cashier.
§ 3124. Indorsement where name is misspelled, etc.
§ 3125. Indorsement in representative capacity.
§ 3126. Time of indorsement; presumption.
§ 3127. Place of indorsement; presumption.
§ 3128. Continuation of negotiable character.
§ 3129. Striking out indorsement.
§ 3130. Transfer without indorsement; effect of.
§ 3131. When prior party may negotiate instrument.

§ 3111. Negotiation. An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery.

See note to § 3082.

§ 3112. Indorsement. The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.

See note to § 3082.

§ 3113. Indorsement of entire instrument. The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part, it may be indorsed as to the residue.

See note to § 3082.

§ 3114. Kinds of indorsement. An indorsement may be either special or in blank; and it may also be either restrictive or qualified, or conditional.

See note to § 3082.

§ 3115. Special indorsement. A special indorsement specifies the person to whom, or to whose order, the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer, and may be negotiated by delivery.

See note to § 3082.

§ 3116. Blank indorsement, how changed to special indorsement. The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

See note to § 3082.

§ 3117. Indorsement restrictive. An indorsement is restrictive, which either—

(1) Prohibits the further negotiation of the instrument; or

(2) Constitutes the indorsee the agent of the indorser; or

(3) Vests the title in the indorsee in trust for or to the use of some other person.

But the mere absence of words implying power to negotiate does not make an indorsement restrictive.

See note to § 3082.

§ 3118. Rights conferred. A restrictive indorsement confers upon the indorsee the right—

(1) To receive payment of the instrument;

(2) To bring any action thereon that the indorser could bring;

(3) To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

See note to § 3082.

§ 3119. Qualified indorsement. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar

import. Such an indorsement does not impair the negotiable character of the instrument.

See note to § 3082.

§ 3120. **Conditional indorsement.** Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated, will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.

See note to § 3082.

§ 3121. **Payable to bearer.** Where an instrument, payable to bearer, is indorsed specially it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement.

See note to § 3082.

§ 3122. **Payable to two or more persons.** Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.

See note to § 3082.

§ 3123. **Indorsed to person as "cashier."** Where an instrument is drawn or indorsed to person as "cashier" or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer; and may be negotiated by either the indorsement of the bank or corporation, or the indorsement of the officer.

See note to § 3082.

§ 3124. **Name misspelled.** Where the name of a payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described, adding, if he think fit, his proper signature.

See note to § 3082.

§ 3125. **In representative capacity.** Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability.

See note to § 3082.

§ 3126. **Time of indorsement.** Except where an indorsement bears date after the maturity of the instrument, every

negotiation is deemed prima facie to have been effected before the instrument was overdue.

See note to § 3082.

§ 3127. Place of indorsement. Except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

See note to § 3082.

§ 3128. Continuation. An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

See note to § 3082.

§ 3129. Striking out indorsement. The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all indorsers subsequent to him, are thereby relieved from liability on the instrument.

See note to § 3082.

§ 3130. Transfer without indorsement. Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferrer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferrer. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

See note to § 3082.

§ 3131. Prior party may negotiate. Where an instrument is negotiated back to a prior party such party may, subject to the provisions of this title, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

See note to § 3082.

ARTICLE IV.

Rights of the Holder.

§ 3132. Right of holder to sue; payment.
§ 3133. What constitutes a holder in due course.
§ 3134. When person not deemed holder in due course.
§ 3135. Notice before full amount paid.
§ 3136. When title defective.
§ 3137. What constitutes notice of defect.
§ 3138. Rights of holder in due course.
§ 3139. When subject to original defenses.
§ 3140. Who deemed holder in due course.

§ 3132. Right to sue. The holder of a negotiable instrument may sue thereon in his own name and payment to him in due course discharges the instrument.

See note to § 3082.

§ 3133. Holder in due course. A holder in due course is a holder who has taken the instrument under the following conditions:

(1) That it is complete and regular upon its face;

(2) That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact;

(3) That he took it in good faith and for value;

(4) That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

See note to § 3082.

§ 3134. Not holder in due course. Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

See note to § 3082.

§ 3135. Notice before full amount paid. Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

See note to § 3082.

§ 3136. When title defective. The title of a person who negotiates an instrument is defective within the meaning of this title when he obtained the instrument, or any signature

thereto, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

See note to § 3082.

§ 3137. Notice of defect. To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith.

See note to § 3082.

§ 3138. Rights of holder in due course. A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

See note to § 3082.

§ 3139. When subject to original. In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were non-negotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

See note to § 3082.

§ 3140. Who deemed holder in due course. Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as holder in due course. But the last-mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

See note to § 3082.

ARTICLE V.

Liabilities of Parties.

§ 3141. Liability of maker.
§ 3142. Liability of drawer.
§ 3143. Liability of acceptor.
§ 3144. When person deemed indorser.
§ 3145. Liability of irregular indorser.
§ 3146. Warranty where negotiation by delivery, etc.
§ 3147. Liability of general indorser.
§ 3148. Liability of indorser where paper negotiable by delivery.
§ 3149. Order in which indorsers are liable.
§ 3150. Liability of an agent or broker.

§ 3141. Liability of maker. The maker of a negotiable instrument by making it engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse.

See note to § 3082.

§ 3142. Liability of drawer. The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negativing or limiting his own liability to the holder.

See note to § 3082.

§ 3143. Liability of acceptor. The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits—

(1) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

(2) The existence of the payee and his then capacity to indorse.

See note to § 3082.

§ 3144. Person deemed indorser. A person placing his signature upon an instrument otherwise than as maker, drawer, or acceptor, is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

See note to § 3082.

§ 3145. Liability of irregular indorser. Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery he is liable as indorser, in accordance with the following rules:

(1) If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.

(2) If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

(3) If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

See note to § 3082.

§ 3146. Warranty when negotiation by delivery, etc. Every person negotiating an instrument by delivery or by a qualified indorsement, warrants—

(1) That the instrument is genuine and in all respects what it purports to be;

(2) That he has a good title to it;

(3) That all prior parties had capacity to contract;

(4) That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision three of this section do not apply to persons negotiating public or corporation securities, other than bills and notes.

See note to § 3082.

§ 3147. Liability of general indorser. Every indorser who indorses without qualification, warrants to all subsequent holders in due course—

(1) The matters and things mentioned in subdivision one, two and three of the next preceding section; and

(2) That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

See note to § 3082.

§ 3148. When negotiable by delivery. Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

See note to § 3082.

§ 3149. Order in which indorsers liable. As respects one another indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsers who indorse are deemed to indorse jointly and severally.

See note to § 3082.

§ 3150. Liability of broker or agent. Where a broker or other agent negotiates an instrument without indorsement he incurs all the liabilities prescribed by section three thousand one hundred forty-seven, unless he discloses the name of his principal, and the fact that he is acting only as agent.

See note to § 3082.

ARTICLE VI.

Presentment for Payment.

§ 3151. Effect of want of demand on principal debtor.
§ 3152. Presentment where instrument is not payable on demand and where payable on demand.
§ 3153. What constitutes a sufficient presentment.
§ 3154. Place of presentment.
§ 3155. Instrument must be exhibited.
§ 3156. Presentment where instrument payable at bank.
§ 3157. Presentment where principal debtor is dead.
§ 3158. Presentment to persons liable as partners.
§ 3159. Presentment to joint debtors.
§ 3160. When presentment not required to charge the drawer.
§ 3161. When presentment not required to charge the indorser.
§ 3162. When delay in making presentment is excused.
§ 3163. When presentment may be dispensed with.
§ 3164. When instrument dishonored by nonpayment.
§ 3165. Liability of person secondarily liable, when instrument dishonored.
§ 3166. Time of maturity.
§ 3167. Time; how computed.
§ 3168. Rule where instrument payable at bank.
§ 3169. What constitutes payment in due course.

§ 3151. Presentment for payment. Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as

herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

See note to § 3082.

§ 3152. Presentment for payment. Where the instrument is not payable on demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

See note to § 3082.

§ 3153. What constitutes sufficient presentment. Presentment for payment, to be sufficient, must be made—

(1) By the holder, or by some person authorized to receive payment on his behalf;

(2) At a reasonable hour on a business day;

(3) At a proper place as herein defined;

(4) To the person primarily liable on the instrument or if he is absent or inaccessible, to any person found at the place where the presentment is made.

See note to § 3082.

§ 3154. Place of presentment. Presentment for payment is made at the proper place—

(1) Where a place of payment is specified in the instrument and it is there presented;

(2) Where no place of payment is specified, but the address of the person to make payment is given in the instrument and it is there presented;

(3) Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;

(4) In any other case if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

See note to § 3082.

§ 3155. Must be exhibited. The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

See note to § 3082.

§ 3156. Where payable at bank. Where the instrument is payable at a bank, presentment for payment must be made dur-

ing banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

See note to § 3082.

§ 3157. Where principal debtor dead. Where a person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative if such there be, and if, with the exercise of reasonable diligence, he can be found.

See note to § 3082.

§ 3158. Persons liable as partners. Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

See note to § 3082.

§ 3159. Joint debts. Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

See note to § 3082.

§ 3160. Presentment for payment not required when. Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

See note to § 3082.

§ 3161. Presentment for payment not required when. Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation and he has no reason to expect that the instrument will be paid if presented.

See note to § 3082.

§ 3162. Delay excused. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

See note to § 3082.

§ 3163. When dispensed with. Presentment for payment is dispensed with—

(1) Where after the exercise of reasonable diligence presentment as required by this title cannot be made;

(2) Where the drawee is a fictitious person;

(3) By waiver of presentment, express or implied.

See note to § 3082.

§ 3164. When dishonored by nonpayment. The instrument is dishonored by nonpayment when—

(1) It is duly presented for payment and payment is refused or cannot be obtained; or

(2) Presentment is excused and the instrument is overdue and unpaid.

See note to § 3082.

§ 3165. Liability of person secondarily liable. Subject to the provisions of this title, when the instrument is dishonored by nonpayment, an immediate right of recourse to all parties secondarily liable thereon accrues to the holder.

See note to § 3082.

§ 3166. Time of maturity. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due or becoming payable on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday.

See note to § 3082.

§ 3167. Determination of time. Where the instrument is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

See note to § 3082.

§ 3168. Where payable at bank. Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

See note to § 3082.

§ 3169. Payment in due course. Payment is made in due course when it is made at or after the maturity of the instru-

ment to the holder thereof in good faith and without notice that his title is defective.

See note to § 3082.

ARTICLE VII.

Notice of Dishonor.

§ 3170. To whom notice of dishonor must be given.
§ 3171. By whom given.
§ 3172. Notice given by agent.
§ 3173. Effect of notice given on behalf of holder.
§ 3174. Effect where notice is given by party entitled thereto.
§ 3175. When agent may give notice.
§ 3176. When notice sufficient.
§ 3177. Form of notice.
§ 3178. To whom notice may be given.
§ 3179. Notice where party is dead.
§ 3180. Notice to partners.
§ 3181. Notice to persons jointly liable.
§ 3182. Notice to bankrupt.
§ 3183. Time within which notice must be given.
§ 3184. Where parties reside in same place.
§ 3185. Where parties reside in different places.
§ 3186. When sender deemed to have given due notice.
§ 3187. Deposit in postoffice; what constitutes.
§ 3188. Notice to subsequent party.
§ 3189. Where notice must be sent.
§ 3190. Waiver of notice.
§ 3191. Whom affected by waiver.
§ 3192. Waiver of protest.
§ 3193. When notice is dispensed with.
§ 3194. Delay in giving notice; how excused.
§ 3195. When notice need not be given to drawer.
§ 3196. When notice need not be given to indorser.
§ 3197. Notice of nonpayment where acceptance refused.
§ 3198. Effect of omission to give notice of nonacceptance.
§ 3199. When protest need not be made; when must be made.

§ 3170. Notice of dishonor. Except as herein otherwise provided, when a negotiable instrument has been dishonored by nonacceptance or nonpayment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

See note to § 3082.

§ 3171. By whom given. The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who upon taking it up would have a right to reimbursement from the party to whom the notice is given.

See note to § 3082.

§ 3172. Notice given by agent. Notice of dishonor may be given by an agent either in his own name or in the name of

any party entitled to give notice, whether that party be his principal or not.

See note to § 3082.

§ 3173. Effect of notice. Where notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

See note to § 3082.

§ 3174. Effect where notice is given by party entitled thereto. Where notice is given by or on behalf of a party entitled to give notice, it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

See note to § 3082.

§ 3175. When agent may give notice. Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.

See note to § 3082.

§ 3176. When notice sufficient. A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.

See note to § 3082.

§ 3177. Form of notice. The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument, and indicate that it has been dishonored by nonacceptance or nonpayment. It may in all cases be given by delivering it personally or through the mails.

See note to § 3082.

§ 3178. To whom notice given. Notice of dishonor may be given either to the party himself or to his agent in that behalf.

See note to § 3082.

§ 3179. Notice where party is dead. When any party is dead, and his death is known to the party giving notice, the

notice must be given to a personal representative, if there be one, and if with reasonable diligence he can be found. If there be no personal representative, notice may be sent to the last residence or last place of business of the deceased.

See note to § 3082.

§ 3180. Notice to partners. Where the parties to be notified are partners, notice to any one partner is notice to the firm even though there has been a dissolution.

See note to § 3082.

§ 3181. Notice to persons jointly liable. Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

See note to § 3082.

§ 3182. Notice to bankrupt. Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee.

See note to § 3082.

§ 3183. Time within which notice must be given. Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided, must be given within the times fixed by this title.

See note to § 3082.

§ 3184. Notice where parties reside in same place. Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times:

(1) If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following;

(2) If given at his residence, it must be given before the usual hours of rest on the day following;

(3) If sent by mail, it must be deposited in the postoffice in time to reach him in usual course on the day following.

See note to § 3082.

§ 3185. Notice where parties reside in different places. Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times:

(1) If sent by mail, it must be deposited in the postoffice in time to go by mail the day following the day of dishonor, or if there be no mail at a convenient hour on that day, by the next mail thereafter;

(2) If given otherwise than through the postoffice, then within the time that notice would have been received in due course of mail, if it had been deposited in the postoffice within the time specified in the last subdivision.

See note to § 3082.

§ 3186. Notice deemed given. Where notice of dishonor is duly addressed and deposited in the postoffice, the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

See note to § 3082.

§ 3187. Deposit in postoffice. Notice is deemed to have been deposited in postoffice when deposited in any branch postoffice or in any letter-box under the control of the postoffice department.

See note to § 3082.

§ 3188. Notice to subsequent party. Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

See note to § 3082.

§ 3189. Where notice may be sent. Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

(1) Either to the postoffice nearest to his place of residence, or to the postoffice where he is accustomed to receive his letters; or

(2) If he live in one place, and have his place of business in another, notice may be sent to either place; or

(3) If he is sojourning in another place, notice may be sent to the place where he is sojourning.

But where the notice is actually received by the party within the time specified in this title, it will be sufficient, though not sent in accordance with the requirements of this section.

See note to § 3082.

§ 3190. Waiver of notice. Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

See note to § 3082.

§ 3191. Who is affected by waiver. Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only.

See note to § 3082.

§ 3192. Waiver of protest. A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of formal protest, but also of presentment and notice of dishonor.

See note to § 3082.

§ 3193. Notice dispensed with. Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it cannot be given to or does not reach the parties sought to be charged.

See note to § 3082.

§ 3194. Delay excused. Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, notice must be given with reasonable diligence.

See note to § 3082.

§ 3195. When not required to be given to drawer. Notice of dishonor is not required to be given to the drawer in either of the following cases:

(1) Where the drawer and drawee are the same person;

(2) When the drawee is a fictitious person or a person not having capacity to contract;

(3) When the drawer is a person to whom the instrument is presented for payment;

(4) Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument;

(5) Where the drawer has countermanded payment.

See note to § 3082.

§ 3196. When not required to be given indorser. Notice of dishonor is not required to be given to an indorser in either of the following cases:

(1) Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument;

(2) Where the indorser is the person to whom the instrument is presented for payment;

(3) Where the instrument was made or accepted for his accommodation.

See note to § 3082.

§ 3197. Notice of nonpayment where acceptance refused. Where due notice of dishonor by nonacceptance has been given notice of a subsequent dishonor by nonpayment is not necessary, unless in the meantime the instrument has been accepted.

See note to § 3082.

§ 3198. Effect of omission. An omission to give notice of dishonor by nonacceptance does not prejudice the rights of a holder in due course subsequent to the omission.

See note to § 3082.

§ 3199. Protest. Where any negotiable instrument has been dishonored it may be protested for nonacceptance or nonpayment, as the case may be; but protest is not required except in the case of foreign bills of exchange.

See note to § 3082.

ARTICLE VIII.

Discharge of Negotiable Instruments.

§ 3200. Instrument; how discharged.
§ 3201. When persons secondarily liable on, discharged.
§ 3202. Right of party who discharged instrument.
§ 3203. Renunciation by holder.
§ 3204. Cancellation; unintentional; burden of proof.
§ 3205. Alteration of instrument; effect of.
§ 3206. What constitutes a material alteration.

§ 3200. How discharged. A negotiable instrument is discharged—

(1) By payment in due course by or on behalf of the principal debtor;

(2) By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;

(3) By the intentional cancellation thereof by the holder;

(4) By any other act which will discharge a simple contract for the payment of money;

(5) When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

See note to § 3082.

§ 3201. Persons secondarily liable discharged. A person secondarily liable on the instrument is discharged—

(1) By any act which discharges the instrument;

(2) By the intentional cancellation of his signature by the holder;

(3) By the discharge of a prior party;

(4) By a valid tender of payment made by a prior party;

(5) By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved;

(6) By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved.

See note to § 3082.

§ 3202. Right of party who discharged. Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except—

(1) Where it is payable to the order of a third person, and has been paid by the drawer; and

(2) Where it was made or accepted for accommodation, and has been paid by the party accommodated.

See note to § 3082.

§ 3203. Renunciation by holder. The holder may expressly renounce his rights against any party to the instrument, before, at or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

See note to § 3082.

§ 3204. Cancellation. A cancellation made unintentionally, or under a mistake or without the authority of the holder, is inoperative; but where an instrument or any signature thereon appears to have been canceled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake or without authority.

See note to § 3082.

§ 3205. Alteration. Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided, except as against a party who has himself made, authorized or assented to the alteration, and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

See note to § 3082.

§ 3206. Material alteration. Any alteration which changes—

(1) The date;

(2) The sum payable, either for principal or interest;

(3) The time or place of payment;

(4) The number or the relations of the parties;

(5) The medium or currency in which payment is to be made;

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

See note to § 3082.

CHAPTER II.

Bills of Exchange.

Article I. Form and Interpretation, §§ 3207–3212.
II. Acceptance, §§ 3213–3223.
III. Presentment for Acceptance, §§ 3224–3232.
IV. Protest, §§ 3233–3241.
V. Acceptance for Honor, §§ 3242–3251.
VI. Payment for Honor, §§ 3252–3258.
VII. Bills in a Set, §§ 3259–3264.

ARTICLE I.

Form and Interpretation.

§ 3207. Bill of exchange defined.
§ 3208. Bill not an assignment of funds in hands of drawee.
§ 3209. Bill addressed to more than one drawee.
§ 3210. Inland and foreign bills of exchange.
§ 3211. When bill may be treated as promissory note.
§ 3212. Referee in case of need.

§ 3207. Bill of exchange defined. A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

See note to § 3082.

§ 3208. Not an assignment of funds. A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same.

See note to § 3082.

§ 3209. Addressed to more than one drawee. A bill may be addressed to two or more drawees jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

See note to § 3082.

§ 3210. Inland and foreign bills. An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this state. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

See note to § 3082.

§ 3211. Bill treated as promissory note. Where in a bill drawer and drawee are the same person, or where the drawee

is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note.

See note to § 3082.

§ 3212. Referee in case of need. The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say in case the bill is dishonored by nonacceptance or nonpayment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may see fit.

See note to § 3082.

ARTICLE II.

Acceptance.

§ 3213. Acceptance; how made, etc.
§ 3214. Holder entitled to acceptance on face of bill.
§ 3215. Acceptance by separate instrument.
§ 3216. Promise to accept; when equivalent to acceptance.
§ 3217. Time allowed drawee to accept.
§ 3218. Liability of drawee retaining or destroying bill.
§ 3219. Acceptance of incomplete bill.
§ 3220. Kinds of acceptances.
§ 3221. What constitutes a general acceptance.
§ 3222. Qualified acceptance.
§ 3223. Rights of parties as to qualified acceptance.

§ 3213. Acceptance. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money.

See note to § 3082.

§ 3214. Holder entitled to acceptance on face of bill. The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill and, if such request is refused, may treat the bill as dishonored.

See note to § 3082.

§ 3215. Acceptance by separate instrument. Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

See note to § 3082.

§ 3216. Promise to accept. An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

See note to § 3082.

§ 3217. Time allowed drawee to accept. The drawee is allowed twenty-four hours after presentment, in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation.

See note to § 3082.

§ 3218. Liability of drawee retaining or destroying bill. Where a drawee to whom a bill is delivered for acceptance destroys the same, or refuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or nonaccepted to the holder, he will be deemed to have accepted the same.

See note to § 3082.

§ 3219. Acceptance of incomplete bill. A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by nonpayment. But when a bill payable after sight is dishonored by nonacceptance and the drawee subsequently accepts it, the holder in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

See note to § 3082.

§ 3220. Kinds of acceptance. An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

See note to § 3082.

§ 3221. Kinds of acceptance. An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.

See note to § 3082.

§ 3222. Qualified acceptance. An acceptance is qualified, which is—

(1) Conditional, that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated;

(2) Partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

(3) Local, that is to say, an acceptance to pay only at a particular place;

(4) Qualified as to time;

(5) The acceptance of some one or more of the drawees, but not of all.

See note to § 3082.

§ 3223. Rights of parties as to qualified acceptances. The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, he may treat the bill as dishonored by nonacceptance. Where a qualified acceptance is taken the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance, he must, within a reasonable time, express his dissent to the holder, or he will be deemed to have assented thereto.

See note to § 3082.

ARTICLE III.

Presentment for Acceptance.

§ 3224. When presentment for acceptance must be made.
§ 3225. When failure to present releases drawer and indorser.
§ 3226. Presentment; how made.
§ 3227. On what days presentment may be made.
§ 3228. Presentment where time is insufficient.
§ 3229. Where presentment is excused.
§ 3230. When dishonored by nonacceptance.
§ 3231. Duty of holder where bill not accepted.
§ 3232. Rights of holder where bill not accepted.

§ 3224. When presentment for acceptance must be made. Presentment for acceptance must be made—

(1) Where the bill is payable after sight, or in any other case, where presentment for acceptance is necessary in order to fix the maturity of the instrument; or

(2) Where the bill expressly stipulates that it shall be presented for acceptance; or

(3) Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

See note to § 3082.

§ 3225. Time for presentment. Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fails to do so, the drawer and all indorsers are discharged.

See note to § 3082.

§ 3226. To whom presentment for acceptance must be made. Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day and before the bill is overdue, to the drawee or some person, authorized to accept or refuse acceptance on his behalf; and—

(1) Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;

(2) Where the drawee is dead, presentment may be made to his personal representative;

(3) Where the drawee has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

See note to § 3082.

§ 3227. On what days presentment may be made. A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections three thousand one hundred fifty-four and three thousand one hundred sixty-seven. When Saturday is not otherwise a holiday, presentment for acceptance may be made before twelve o'clock, noon, on that day.

See note to § 3082.

§ 3228. Presentment where time is insufficient. Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

See note to § 3082.

§ 3229. When presentment is excused. Presentment for acceptance is excused and a bill may be treated as dishonored by nonacceptance, in either of the following cases:

(1) Where the drawee is dead, or has absconded, or is a fictitious person or a person not having capacity to contract by bill;

(2) Where, after the exercise of reasonable diligence, presentment cannot be made;

(3) Where, although presentment has been irregular, acceptance has been refused on some other ground.

See note to § 3082.

§ 3230. Bill dishonored by nonacceptance. A bill is dishonored by nonacceptance—

(1) When it is duly presented for acceptance and such an acceptance as is prescribed by this title is refused or cannot be obtained; or

(2) When presentment for acceptance is excused and the bill is not accepted.

See note to § 3082.

§ 3231. Duty of holder where not accepted. Where a bill is duly presented for acceptance and is not accepted within the prescribed time the person presenting it must treat the bill as dishonored by nonacceptance or he loses the right of recourse against the drawer and indorsers.

See note to § 3082.

§ 3232. Rights of holder where bill not accepted. When a bill is dishonored by nonacceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary.

See note to § 3082.

ARTICLE IV.

Protest.

§ 3233. In what cases protest necessary.
§ 3234. Protest; how made.
§ 3235. Protest; by whom made.
§ 3236. Protest; when to be made.
§ 3237. Protest; where made.
§ 3238. Protest both for nonacceptance and nonpayment.
§ 3239. Protest before maturity where acceptor insolvent.
§ 3240. When protest dispensed with.
§ 3241. Protest where bill is lost, etc.

§ 3233. In what cases protest necessary. Where a foreign bill appearing on its face to be such is dishonored by nonacceptance, it must be duly protested for nonacceptance, and where such a bill which has not previously been dishonored

by nonacceptance is dishonored by nonpayment, it must be duly protested for nonpayment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary.

See note to § 3082.

§ 3234. How made. The protest must be annexed to the bill, or must contain a copy thereof and must be under the hand and seal of the notary making it, and must specify—

(1) The time and place of presentment;

(2) The fact that presentment was made and the manner thereof;

(3) The cause or reason for protesting the bill;

(4) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

See note to § 3082.

§ 3235. By whom made. Protest may be made by—

(1) A notary public; or

(2) By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

See note to § 3082.

§ 3236. When made. When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

See note to § 3082.

§ 3237. Where made. A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business, or residence of some person other than the drawee, has been dishonored by nonacceptance, it must be protested for nonpayment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

See note to § 3082.

§ 3238. Protest both for nonacceptance and nonpayment. A bill which has been protested for nonacceptance may be subsequently protested for nonpayment.

See note to § 3082.

§ 3239. Protest before maturity. Where the acceptor has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

See note to § 3082.

§ 3240. When dispensed with. Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

See note to § 3082.

§ 3241. When bill lost, etc. When a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

See note to § 3082.

ARTICLE V.

Acceptance for Honor.

§ 3242. When bill may be accepted for honor.
§ 3243. Acceptance for honor; how made.
§ 3244. When deemed to be an acceptance for honor of the drawer.
§ 3245. Liability of the acceptor for honor.
§ 3246. Agreement of acceptor for honor.
§ 3247. Maturity of bill payable after sight; accepted for honor, etc.
§ 3248. Protest of bill accepted for honor, etc.
§ 3249. Presentment for payment to acceptor for honor; how made.
§ 3250. When delay in making presentment is excused.
§ 3251. Dishonor of bill by acceptor for honor.

§ 3242. Acceptance for honor. Where a bill of exchange has been protested for dishonor by nonacceptance or protested for better security, and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon, or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for the part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

See note to § 3082.

§ 3243. How made. An acceptance for honor supra protest must be in writing, and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

See note to § 3082.

§ 3244. What deemed to be an acceptance for honor of the drawer. Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer.

See note to § 3082.

§ 3245. Liability of acceptor. The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

See note to § 3082.

§ 3246. Agreement of acceptor for honor. The acceptor for honor, by such acceptance engages that he will on due presentment pay the bill according to the terms of his acceptance; provided, it shall not have been paid by the drawee; and provided, also, that it shall have been duly presented for payment and protested for nonpayment and notice of dishonor given him.

See note to § 3082.

§ 3247. Bill payable after sight. Where a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for nonacceptance and not from the date of the acceptance for honor.

See note to § 3082.

§ 3248. Protest. Where a dishonored bill has been accepted for honor supra protest or contains a reference in case of need, it must be protested for nonpayment before it is presented for payment to the acceptor for honor or referee in case of need.

See note to § 3082.

§ 3249. Presentment to acceptor. Presentment for payment to the acceptor for honor must be made as follows:

(1) If it is to be presented in the place where the protest for nonpayment was made, it must be presented not later than the day following its maturity.

(2) If it is to be presented in some other place than the place where it was protested, then it must be forwarded within

the time specified in section three thousand one hundred eighty-six.

See note to § 3082.

§ 3250. When delay in making presentment is excused. The provisions of section three thousand one hundred sixty-three apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

See note to § 3082.

§ 3251. Dishonor of bill by acceptor for honor. When the bill is dishonored by the acceptor for honor it must be protested for nonpayment by him.

See note to § 3082.

ARTICLE VI.

Payment for Honor.

§ 3252. Who may make payment for honor.
§ 3253. Payment for honor; how made.
§ 3254. Declaration before payment for honor.
§ 3255. Preference of parties offering to pay for honor.
§ 3256. Effect on subsequent parties where bill is paid for honor.
§ 3257. Where holder refuses to receive payment supra protest.
§ 3258. Rights of payer for honor.

§ 3252. Payment for honor. Where a bill has been protested for nonpayment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn.

See note to § 3082.

§ 3253. Payment for honor, how made. The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it.

See note to § 3082.

§ 3254. Declaration. The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

See note to § 3082.

§ 3255. Preference of parties. Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference.

See note to § 3082.

§ 3256. Subsequent parties discharged. Where a bill has been paid for honor, all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

See note to § 3082.

§ 3257. Right of recourse lost. Where the holder of a bill refuses to receive payment supra protest, he loses his right of recourse against any party who would have been discharged by such payment.

See note to § 3082.

§ 3258. Right of payer for honor. The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

See note to § 3082.

ARTICLE VII.

Bills in a Set.

§ 3259. Bills in sets constitute one bill.
§ 3260. Right of holders where different parts are negotiated.
§ 3261. Liability of holder who indorses two or more parts of a set to different persons.
§ 3262. Acceptance of bills drawn in sets.
§ 3263. Payment by acceptor of bills drawn in sets.
§ 3264. Effect of discharging one of a set.

§ 3259. Bills in sets one bill. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

See note to § 3082.

§ 3260. Where different parts are negotiated. Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

See note to § 3082.

§ 3261. Liability of holder. Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable

on the part he has himself indorsed, as if such parts were separate bills.

See note to § 3082.

§ 3262. Acceptance. The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

See note to § 3082.

§ 3263. Payment by acceptor. When the acceptor of a bill drawn in a set pays it without requiring the part being his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

See note to § 3082.

§ 3264. Whole bill discharged. Except as herein otherwise provided where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

See note to § 3082.

CHAPTER III.

Promissory Notes and Checks.

ARTICLE I.

§ 3265. Promissory note defined.
§ 3265a. Check defined.
§ 3265b. Within what time a check must be presented.
§ 3265c. Certification of check; effect of.
§ 3265d. Effect where the holder of check procures it to be certified.
§ 3265e. When check operates as an assignment.

§ 3265. Promissory note defined. A negotiable promissory note within the meaning of this title is an unconditional promise in writing made by one person to another signed by the maker engaging to pay on demand, or at a fixed or determinable future time, a sum certain in money to order or to bearer. Where a note is drawn to the maker's own order, it is not complete until indorsed by him.

See note to § 3082.

§ 3265a. Check defined. A check is a bill of exchange drawn on a bank payable on demand. Except as herein other-

wise provided, the provisions of this title applicable to a bill of exchange payable on demand apply to a check.

See note to § 3082.

§ 3265b. Time for presenting check. A check must be presented for payment within a reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

See note to § 3082.

§ 3265c. Certified check. Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

See note to § 3082.

§ 3265d. Effect of acceptance or certification. Where the holder of a check procures it to be accepted or certified the drawer and all indorsers are discharged from liability thereon.

See note to § 3082.

§ 3265e. When check operates as assignment. A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

See note to § 3082.

CHAPTER IV.

General Provisions.

ARTICLE I.

§ 3266. Definitions and meaning of terms.
§ 3266a. Person primarily liable on instrument.
§ 3266b. Reasonable time, what constitutes.
§ 3266c. Time, how computed, when last day falls on holiday.
§ 3266d. Application of act.

§ 3266. Definitions. In this title, unless the context otherwise requires—

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes counterclaim and setoff.

"Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange, and "note" means negotiable promissory note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or indorsee of a bill or note, who is in possession of it; or the bearer thereof.

"Indorsement" means an indorsement completed by delivery.

"Instrument" means negotiable instrument.

"Issue" means the first delivery of the instrument complete in form, to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed, and "writing" includes print.

See note to § 3082.

§ 3266a. Person primarily liable on instrument. The person "primarily" liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are "secondarily" liable.

See note to § 3082.

§ 3266b. Reasonable time, what constitutes. In determining what is a "reasonable time" or an "unreasonable time," regard is to be had to the nature of the instrument, the usage of trade or business (if any) with respect to such instruments, and the facts of the particular case.

See note to § 3082.

§ 3266c. Time, how computed when last day falls on holiday. Where the day, or the last day, for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

See note to § 3082.

§ 3266d. Application of act. The provisions of this title do not apply to negotiable instruments made and delivered prior to the taking effect hereof. In any case not provided for in this title the rules of law and equity including the law-merchant shall govern.

See note to § 3082.

§ 3320. Liability for nonpayment of check. No bank shall be liable to a depositor because of the nonpayment through

mistake or error, and without malice, of a check which should have been paid unless the depositor shall allege and prove actual damage by reason of such nonpayment and in such event the liability shall not exceed the amount of damage so proved. [New section added May 17, 1917; Stats. 1917, p. 622.]

§ 3440. Transfers presumed fraudulent. Exceptions. Recording of notice of sale. Sales at public auction. Transfers under order of court. Every transfer of personal property, other than a thing in action, or a ship or cargo at sea or in a foreign port, and every lien thereon, other than a mortgage, when allowed by law, and a contract of bottomry or respondentia, is conclusively presumed if made by a person having at the time the possession or control of the property, and not accompanied by an immediate delivery, and followed by an actual and continued change of possession of the things transferred, to be fraudulent, and therefore void, against those who are his creditors while he remains in possession, and the successors in interest of such creditors, and against any persons on whom his estate devolves in trust for the benefit of others than himself, and against purchasers or encumbrancers in good faith subsequent to the transfer; provided, however, that the provisions of this section shall not apply to the transfer of wines in the wineries or wine cellars of the makers or owners thereof, or other persons having possession, care, and control of the same, and the pipes, casks, and tanks in which the said wines are contained, which transfers shall be made in writing, and certified and verified in the same form as provided for chattel mortgages, and which shall be recorded in the book of miscellaneous records in the office of the county recorder of the county in which the same are situated; provided, also, that the sale, transfer, or assignment of a stock in trade (or of such a quantity of a stock in trade as to be substantially a whole) in bulk, or in any manner otherwise than in the ordinary course of trade and in the regular and usual practice and method of business of the vendor, transferrer, or assignor, and the sale, transfer, assignment or mortgage of the fixtures or store equipment of a merchant, will be conclusively presumed to be fraudulent and void as against the existing creditors of the vendor, transferrer, assignor or mortgagor, unless at least seven days before the consummation of such sale, transfer, assignment or mortgage the vendor, transferrer, assignor or mortgagor, or the intended vendee, transferee, assignee, or mortgagee, shall record in the office of the county recorder in

the county or counties in which the said stock in trade, fixtures or equipment are situated a notice of said intended sale, transfer, assignment or mortgage, stating the name and address of the intended vendor, transferrer, assignor or mortgagor, and the name and address of the intended vendee, transferee, assignee or mortgagee, and a general statement of the character of the merchandise or property intended to be sold, assigned, transferred or mortgaged, and the date when and the place where the purchase price or consideration, if any there be, is to be paid; provided, nevertheless, that if such intended sale is to be at public auction the notice above required to be recorded shall state that fact, the time, terms, and place of said sale, the names and addresses of the vendor and auctioneer, and a general statement of the character of the merchandise or property intended to be sold; but such sale shall in no event occur within seven days of the date of recordation of said notice; provided, further, that the provisions of this section shall not apply or extend to any sale, transfer, assignment or mortgage made under the direction or order of a court of competent jurisdiction or by any executor, administrator, guardian, receiver, or other officer or person acting in the regular and proper discharge of official duty, or in the discharge of any trust imposed upon him by law, nor to any transfer or assignment, statutory or otherwise, made for the benefit of creditors generally, nor to any sale, transfer, assignment or mortgage of any property exempt from execution. [Amendment approved May 5, 1917; Stats. 1917, p. 255.]

THE

PENAL CODE

OF

CALIFORNIA.

AMENDMENTS OF 1917.

§ 63. **United States senator, candidates for must not give or promise pecuniary aid to legislative candidates.** [Repealed by act approved April 24, 1917; Stats. 1917, p. 170.]

§ 63½. **Members of legislature shall not accept any valuable consideration.** [Repealed by act approved April 24, 1917; Stats. 1917, p. 170.]

§ 109a. **Escapes from state hospitals.** Any person who willfully assists any inmate of a state hospital to escape, or in an attempt to escape therefrom, is guilty of a misdemeanor. [New section added May 5, 1917; Stats. 1917, p. 275.]

§ 259. **Newspaper articles of personal character must be signed. Penalty for violation. Name of author of book or news agency sufficient.** [Repealed by act approved April 24, 1917; Stats. 1917, p. 174.]

§ 270. **Penalty for not furnishing child with food, etc.** A parent of either a legitimate or illegitimate minor child who willfully omits, without lawful excuse to furnish necessary food, clothing, shelter, or medical attendance for his child, is punishable by imprisonment in the state prison, or in the county jail, not exceeding two years, or by fine not exceeding one thousand dollars, or by both. The superior court, sitting as a juvenile court, may exercise original jurisdiction over all such offenses. [Amendment approved May 5, 1917; Stats. 1917, p. 252.]

§ 310. **Desecration of national flag. Penalty.** Any person, firm or corporation, who, in any manner, for exhibition

or display, puts, places, or causes to be placed, an inscription, picture, device, design, symbol, name, advertisement, word, letter, character, mark or notice of any kind whatsoever, upon any flag of the United States, or ensign evidently purporting to be such flag, or who in any manner appends, annexes or affixes to any such flag any inscription, picture, device, symbol, name, advertisement, word, letter, character, mark or notice whatsoever, or who displays or exhibits, or causes to be displayed or exhibited, any flag of the United States or ensign purporting to be such flag, upon which is put, attached, annexed, affixed or placed in any manner, any inscription, picture, design, device, symbol, name, advertisement, word, letter, mark or notice whatsoever, or who mutilates, tramples upon, or otherwise defaces or defiles any such flag, said flag being public or private property, or who places or causes to be placed on any manufactured or prepared article or covering of said article, such flag or indication of such flag, or who uses or causes to be used for purposes of a commercial or other trademark, such flag or indication of such flag, shall be fined not more than two hundred dollars or imprisoned not more than one year, or both, for each and every offense, in the county jail of the county in which the trial is held; provided, however, that flags or ensigns, the property of and used in the service of the United States, or any state, territory or District of Columbia, may have inscriptions, names of actions, battles, skirmishes, or words, marks or symbols, which are placed thereon pursuant to law or authorized regulations. [Amendment approved April 5, 1917; Stats. 1917, p. 43.]

§ 331. Gambling in houses owned or rented. Every person who knowingly permits any of the games mentioned in section three hundred thirty and section three hundred thirty *a* of this code to be played, conducted, or dealt in any house owned or rented by such person, in whole or in part, is punishable as provided in the preceding sections. [Amendment approved June 1, 1917; Stats. 1917, p. 1662.]

§ 351a. Falsely representing goods for sale. Written consent. Any person who sells, attempts to sell, offers for sale or assists in the sale of any goods, product or output, and who willfully and falsely represents such goods, product or output to be the goods, product or output of any dealer, manufacturer or producer, other than the

true dealer, manufacturer or producer, or any member of a firm or any officer of a corporation, who knowingly permits any employee of such firm or corporation to sell, offer for sale or assist in the sale of any goods, product or output or to falsely represent such goods, product or output to be the goods, product or output of any dealer, manufacturer or producer, other than the true dealer, manufacturer or producer, is guilty of a misdemeanor and punishable by a fine of not less than fifty dollars or more than three hundred dollars, or by imprisonment in the county jail for not less than twenty or more than ninety days, or both; provided, however, that this section shall not apply to any person who sells or offers for sale under his own name or brand the product or output of another manufacturer or producer with the written consent of such manufacturer or producer. [New section added May 17, 1917; Stats. 1917, p. 570.]

§ 373. **Establishing or keeping pesthouses within cities, towns or villages.** [Enacted February 14, 1872. Repealed by act approved April 5, 1917; Stats. 1917, p. 40.]

§ 439. **Effecting insurance on account of foreign companies that have not complied with the laws of this state.** [Repealed as far as inconsistent with § 596 of the Political Code by act approved April 20, 1917; Stats. 1917, p. 150. See Political Code, § 596.]

§ 464. **Burglary with explosives.** 1. Any person who, with intent to commit crime, breaks and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe or other secure place by use of nitroglycerine, dynamite, gunpowder or any other explosive, shall be deemed guilty of burglary with explosives.

2. **Penalty.** Any person duly convicted of burglary with explosives shall be punished by imprisonment for a term of not less than twenty-five nor more than forty years. [New section added May 5, 1917; Stats. 1917, p. 273.]

§ 483. **Selling ticket, etc., to person not entitled to use.** Any person, firm, corporation, partnership, or association that shall sell to another any ticket, pass, scrip, mileage or commutation book, coupon, or other instrument for passage on a common carrier, for the use of any person not

entitled to use the same according to the terms thereof. or of the book or portion thereof from which it was detached, shall be guilty of a misdemeanor. [New section added May 31, 1917; Stats. 1917, p. 1401.]

§ 499a. **Stealing electricity misdemeanor.** Every person who shall willfully, and knowingly with intent to injure or defraud, make or cause to be made any connection in any manner whatsoever with any electric wire or electric appliance of any character whatsoever operated by any person, persons or corporation authorized to generate, transmit and sell electric current, or who shall so willfully and knowingly with intent to injure or defraud, use or cause to be used any such connection in such manner as to supply any electric current for heat or light or power to any electric lamp, or apparatus or device, by or at which electric current for heat or light or power is consumed or otherwise used or wasted, without passing through a meter for the measuring and registering of the quantity passing through such electric wire or apparatus, or who shall, knowingly and with like intent injure, alter or procure to be injured or altered any electric meter, or obstruct its working, or procure the same to be tampered with or injured, or use or cause to be used any electric meter, or appliance so tampered with or injured, shall be deemed guilty of a misdemeanor. [Amendment approved April 20, 1917; Stats. 1917, p. 150.]

§ 504a. **Fraudulent removal of leased property embezzlement.** Every person who shall fraudulently remove, conceal or dispose of any goods, chattels or effects, leased or let to him by any instrument in writing, or any personal property or effects of another in his possession, under a contract of purchase not yet fulfilled, and any person in possession of such goods, chattels, or effects knowing them to be subject to such lease or contract of purchase who shall so remove, conceal or dispose of the same with intent to injure or defraud the lessor or owner thereof, is guilty of embezzlement. [New section added May 5, 1917; Stats. 1917, p. 273.]

§ 506a. **Collector defined.** Any person who, acting as collector, or acting in any capacity in or about a business conducted for the collection of accounts or debts owing by another person, and who violates the provisions of section

five hundred six of the Penal Code, shall be deemed to be an agent or person as defined in said section five hundred six of the Penal Code, and subject for a violation of the provisions of said section five hundred six of the Penal Code, to be prosecuted, tried, and punished in accordance therewith and with law; and the word collector herein set forth shall also include and be held to mean every such person who collects, or who has in his possession or under his control property or money for the use of any other person, whether in his own name and mixed with his own property or money, or otherwise, or whether he has any interest, direct or indirect, in or to such property or money, or any portion thereof, and who fraudulently appropriates to his own use, or the use of any person other than the true owner, or person entitled thereto, or secretes such property or money, or any portion thereof, or interest therein not his own, with a fraudulent intent to appropriate it to any use or purpose not in the due and lawful execution of his trust. [New section added May 24, 1917; Stats. 1917, p. 931.]

§ 537d. Removing automobile subject to lien misdemeanor. Any person who surreptitiously or by false pretenses obtains or removes from any garage or repair shop any automobile or other personal property upon which the proprietor or manager thereof would be entitled to a lien, pursuant to the provisions of section three thousand fifty-one of the Civil Code, is guilty of a misdemeanor. [New section added May 7, 1917; Stats. 1917, p. 291.]

§ 561. Frauds by bank officers, etc. An officer, director, agent, teller, clerk or employee of any bank, who, either,

1. Knowingly overdraws his account with such bank and thereby obtains the money, notes or funds of any such bank; or

2. Asks for, receives, or consents or agrees to receive, any commission, emolument, gratuity or reward, or any promise of any commission, emolument, gratuity or reward, or any money, property or thing of value or of personal advantage for procuring or endeavoring to procure for any person, firm or corporation, any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange by any such bank, or for permitting any person, firm or corporation to withdraw any account with such bank, is guilty of a felony. [Amendment approved May 17, 1917; Stats. 1917, p. 579.]

§ 561a. Any officer, director, trustee, employee or agent of any bank in this state, who abstracts or willfully misapplies any of the money, funds or property of such bank, or willfully misapplies its credit, is guilty of a felony. Nothing in this section shall be deemed or construed to repeal, amend or impair any existing provision of law prescribing a punishment for any such offense. [New section added May 17, 1917; Stats. 1917, p. 579.]

§ 561b. **Frauds by director of bank.** Every director of a bank in this state who

1. In case of the fraudulent insolvency of such bank, shall have participated in such fraud; or

2. Willfully does any act as such director which is expressly forbidden by law or willfully omits to perform any duty imposed upon him as such director by law, is guilty of a misdemeanor.

The insolvency of a bank is deemed fraudulent unless its affairs appear upon investigation to have been administered clearly, legally and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe. [New section added May 17, 1917; Stats. 1917, p. 579.]

§ 561c. **Guaranty in sum beyond legal amount.** An officer or agent of any bank in this state, who makes or delivers any guaranty or indorsement on behalf of such bank, whereby it may become liable upon any of its discounted notes, bills or obligations, in a sum beyond the amount of loans and discounts which such bank may legally make, is guilty of a misdemeanor. [New section added May 17, 1917; Stats. 1917, p. 580.]

§ 561d. **Loan to director. Deposit with corporation to make loan. Concealing accounts or loans.** A director of a bank, organized under the laws of this state, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended to make a loan or discount to any director of such corporation, or upon paper upon which any such director is liable or responsible to an amount exceeding the amount allowed by the statutes; or

Any director, trustee, officer or employee of any such bank who makes or maintains, or attempts to make or maintain, a deposit of such bank's funds with any other corporation on condition, or with the understanding, express or implied, that the corporation receiving such deposit make a

loan or advance, directly or indirectly, to any director, trustee, officer or employee of the corporation so making or maintaining or attempting to make or maintain such deposit; or

Any officer or employee of any such bank who intentionally conceals from the directors or trustees of such bank any discounts or loans made by it between the regular meetings of its board of directors or trustees, or the purchase of any securities or the sale of its securities during the same period, or knowingly fails to report to the board of directors or trustees when required to do so by law, all discounts or loans made by it and all securities purchased or sold by it between the regular meetings of its board of directors or trustees, is guilty of a misdemeanor.

Nothing in this section shall render any loan made by the directors of any bank, in violation thereof, invalid. [New section added May 17, 1917; Stats. 1917, p. 580.]

§ 563a. **False entry.** Any officer, director, trustee, employee or agent of any bank organized under the laws of this state, who makes a false or untrue entry in any book or any report, tag or statement, of the business, affairs or condition, in whole or in part, of such corporation, with intent to deceive any officer, director or trustee thereof, or any agent or examiner, private or official, employed or lawfully appointed to examine into its condition or into any of its affairs, or any public officer, office or board to which such bank is required by law to report, or which has authority by law to examine into its affairs or into any of its affairs, or who, with like intent, willfully omits to make a new entry of any matter particularly pertaining to the business, property, affairs, assets or accounts of such bank in any book, report, statement, or tag of such bank made, written or kept, or required to be made, written or kept by him or under his direction, is guilty of a felony. [New section added May 17, 1917; Stats. 1917, p. 579.]

§ 563b. **Circulating false rumors regarding bank.** Any person who willfully and knowingly makes, circulates or transmits to another or others any statement or rumor, written, printed or by word of mouth, which is untrue in facts and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank, doing business in this state, or who knowingly counsels, aids, procures or induces another to start,

transmit or circulate any such statement or rumor, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. [New section added April 11, 1917; Stats. 1917, p. 92.]

§ 599f. Penalty for killing elk. Every person who willfully kills any elk, is guilty of a felony, and is punishable by imprisonment in the state prison for a term not exceeding two years and the possession of any elk meat shall be prima facie evidence of a violation of this act. [Amendment approved April 5, 1917; Stats. 1917, p. 39.]

§ 602. Malicious injury to real property. Every person who willfully commits any trespass by either:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another;

(b) Carrying away any kind of wood or timber lying on such lands;

(c) Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof;

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone;

(e) Digging, taking, or carrying away from land in any city or town, laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone;

(f) Maliciously tearing down, damaging, mutilating or destroying any sign, signboard or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road or roads, or a highway or highways, or is intended to direct travelers from one point to another; or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether

for sale or otherwise, or any picture, sign, or device intended to call attention thereto;

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands;

(h) Willfully opening, tearing down, or otherwise destroying any fence on the inclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property; or

(i) Entering any inclosure belonging to, or occupied by another, for the purpose of hunting, shooting, killing, or destroying any kind of game within such inclosure, without having first obtained permission from the owner of such inclosure;

Is guilty of a misdemeanor. [Amendment approved May 10, 1917; Stats. 1917, p. 319.]

§ 626. Protection of ducks, geese, crane, etc. Valley quail. Rabbit. Mountain quail. Grouse. Sagehen. Every person who, between the first day of February and the fifteenth day of October, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys, or has in his possession, any kind of wild duck, or goose, or brant, or mudhen, or gallinule, or Wilson snipe; or who, at any time, takes, kills or destroys, or has in his possession, any rail, or wood duck, or wild pigeon, or any shore-bird, except Wilson snipe, or any sandhill crane, whooping crane or little brown crane; or who, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills, or destroys, or has in his possession, any desert or valley quail, or cottontail or brush rabbit; or who, between the first day of December and the thirty-first day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills, or destroys, or has in his possession, any mountain quail; or who, between the fifteenth day of October and the fourteenth day

of September, both dates inclusive, of the year following, hunts, pursues, takes, kills, or destroys, or has in his possession, any grouse is guilty of a misdemeanor; or who, between the first day of October and the fourteenth day of August, both dates inclusive, of the year following, hunts, pursues, takes, kills or destroys, or has in his possession any sagehen, is guilty of a misdemeanor; provided, that in fish and game district number four every person who at any time hunts, pursues, takes, kills or destroys, or has in his possession any sagehen is guilty of a misdemeanor; provided, further, that in fish and game districts numbers two, three and four, and any fish and game districts lying between the northern boundary of Mendocino county and the southern boundary of San Diego county, every person, who, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills, or destroys, or has in his possession, any mountain quail is guilty of a misdemeanor. [Amendment approved May 18, 1917; Stats. 1917, p. 652.]

§ 626a. Dove-hunting in fish and game district No. 1. Every person who, between the first day of December and the thirty-first day of August of the year following (both dates inclusive), hunts, takes, kills, pursues or destroys or has in his possession any dove is guilty of a misdemeanor; provided, that in fish and game district number one, every person who, between the first day of November and the thirty-first day of July of the year following (both dates inclusive), of any year, hunts, takes, kills, pursues or destroys, or has in his possession, any dove, is guilty of a misdemeanor. [Amendment approved April 5, 1917; Stats. 1917, p. 38.]

§ 626e. Hunting female deer, etc., misdemeanor. 1. Every person who hunts, pursues, takes or destroys or has in his possession any female deer, spotted fawn or spike buck, antelope or mountain sheep is guilty of a misdemeanor.

2. **Hunters to retain portion of head bearing horns.** Every person taking or killing any deer must retain in his possession during the open season and for ten days after the close of the open season the skin and portion of the head bearing the horns and must produce this upon the demand of any officer authorized to enforce the fish and game laws.

Any person failing to comply with the provisions of this section is guilty of a misdemeanor.

3. **"Spiked buck" defined.** For the purpose of this act, any male deer with unbranched horns or antlers shall be considered a "spiked buck." [Amendment approved April 5, 1917; Stats. 1917, p. 58.]

§ 626j. Tracking deer with more than one dog misdemeanor. Every person, who, owning, controlling, or having in his possession any dogs, suffers, permits or allows more than one of said dogs to run, track or trail any deer at any time during the open season that deer may be lawfully killed is guilty of a misdemeanor.

Every person, who, owning, controlling or having in his possession any dogs, suffers, permits or allows any of said dogs to run, track or trail any deer during the closed season for the taking of deer is guilty of a misdemeanor. [Amendment approved April 5, 1917; Stats. 1917, p. 59.]

§ 626l. Permission to take fish and game for scientific purposes. Nothing in this chapter, nor the Penal Code, shall prohibit the possession or the taking alive for scientific, educational or propagation purposes any of the wild game birds or game mammals or fishes of this state; provided, however, permission to take, kill and possess said wild game birds, game mammals or fishes for said purposes shall have been first obtained in writing from the state board of fish and game commissioners, and said permit shall accompany the shipment of said wild game birds or game mammals or fishes and shall exempt them from seizure while passing through any part of this state, or while in possession, in accordance with said permit.

All game birds or game mammals or fish taken under any permit shall be taken under the supervision of said board. [Amendment approved April 16, 1917; Stats. 1917, p. 139.]

§ 626o. Shooting ducks from launch unlawful. Every person who, in the state of California, shoots at any kind of wild duck from a launch or other boat propelled by steam, gasoline, naphtha, electricity or other power, while said launch or boat is in motion, is guilty of a misdemeanor; provided, that in fish and game district four A every person who shoots at any kind of wild duck from any boat except a sailboat or rowboat is guilty of a misdemeanor. [Amendment approved May 28, 1917; Stats. 1917, p. 1279.]

§ 626p. Hunting beaver. Penalty. Every person, who takes, catches or kills or has in his possession any beaver, or who has in his possession any green beaver hides, is guilty of a misdemeanor.

(a) Provided, that the state fish and game commission may in writing authorize any person to take, catch or kill any beaver, when notice in writing is given the state fish and game commission that beavers are endangering or destroying the levees or other protective works of any reclamation district, levee district, or swamp-land district.

(b) Provided, further, that the person or persons so taking, catching or killing any such beavers shall, within ten days thereafter, report in writing such taking, catching or killing and the place thereof to the state fish and game commission, and the state fish and game commission may thereupon issue permission in writing for the disposal of such hide or pelt so taken, caught or killed.

(c) Provided, further, that the provisions of this section shall not apply to the skin or pelt of any beaver taken, caught or killed in any other state or country in which the taking, catching, killing and sale of beavers is permitted.

(d) Every person found guilty of a violation of the provisions of this section must be fined in a sum not less than twenty-five dollars, nor more than five hundred dollars, or imprisonment in the county jail of the county in which the conviction shall be had not less than twenty-five days, nor more than one hundred and fifty days, or by both such fine and imprisonment. [Amendment approved April 5, 1917; Stats. 1917, p. 39.]

§ 626r. Penalty for sale of aigrettes, etc. Every person who, after the first day of November, one thousand nine hundred seventeen, sells or offers for sale or has in his possession for sale any aigrette or egret, osprey, bird of paradise, goura, or numidi, or the plume feathers, quills, head, wings, tail, skin, or parts of skin, raw or manufactured, of the said aigrette or egret, osprey, bird of paradise, goura or numidi, shall be guilty of a misdemeanor. [New section added May 18, 1917; Stats. 1917, p. 662.]

§ 626s. Protection of fish and game in districts one A, etc. Penalty. Every person who, in fish and game districts numbers one A, one B, one C, one D, one E, one F, one G, one H, one I, one J, one K, one L, two A, three A,

three B, three C, three D, four A, four B, four C, four D, four E, four F, hunts, pursues, takes, catches, kills, destroys, or has in his possession any wild bird or wild animal, excepting the predatory birds and animals designated in this chapter, or who, within the boundaries of said fish and game districts numbers one A, one B, one C, one D, one E, one F, one G, one H, one I, one J, one K, one L, two A, three A, three B, three C, three D, three E, four A, four B, four C, four D, four E, hunts, pursues, takes, catches, kills, destroys, or has in his possession any predatory bird or animal, without first having secured written permission from the board of fish and game commissioners, shall be guilty of a misdemeanor; provided, that nothing in this act shall prohibit the hunting, pursuing and killing of water fowl in game district four A, in accordance with the provisions prescribed in this chapter.

Every person who, in fish and game district number twenty-six, takes, catches, kills, or has in possession any fish is guilty of a misdemeanor.

Every person found guilty of a violation of any of the provisions of this section shall be punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail in the county in which conviction shall be had, not less than fifty days nor more than one hundred fifty days, or by both such fine and imprisonment. All fines and forfeitures collected for any violation of any of the provisions of this section shall be paid into the state treasury to the credit of the fish and game preservation fund. Nothing in this act shall prohibit the fish and game commission or persons authorized by them, from taking at all times and in any manner such fish or game as they may deem necessary for scientific purposes, or purposes of propagation. [Amendment approved May 28, 1917; Stats. 1917, p. 1042.]

§ 626u. Affidavit when shipping deer. Penalty. Any person lawfully killing a deer during the open season may ship such entire deer to any part of the state during the open season for the killing of deer in the district in which the animal is killed, provided that an affidavit is made before a justice of the peace or notary public, in which affidavit is set forth the date and place of killing, the name and address, the number of hunting license of the party killing and shipping the deer, the name and address of the party to whom the deer is shipped. The original of this

affidavit must immediately be filed with the fish and game commission in San Francisco, a copy attached to the carcass of the deer shipped and a copy left on file with the notary public or justice of the peace before whom the affidavit is made. After such deer is received in the district in which the season is closed, if it is desired to distribute it to two or more persons, the receiver must at once file with the fish and game commission a list of the persons receiving any part of the said deer.

Every person failing to comply with the provisions of this act shall be guilty of a misdemeanor, and is punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail, in the county in which the conviction shall be had. of not less than twenty-five days, nor more than one hundred and fifty days, or by both such fine and imprisonment; and all fines and forfeitures imposed or collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund. [Amendment approved May 17, 1917; Stats. 1917, p. 655.]

§ 627a. Transportation of game out of state misdemeanor. Every railroad company, express company, transportation company, or other common carrier, its officers, agents, and servants, and every other person who transports, carries or takes out of this state, or who receives for the purpose of transporting from this state, any deer, deerskin, or part of deerskin, or any quail, partridge, pheasant, grouse, or sagehen or prairie-chicken, dove, wild pigeon, or any wild duck, wild goose, rail, snipe, ibis, curley, plover, or other shore-birds (Limicolae), except for the purpose of propagation or scientific purposes, under a permit, in writing, first obtained from the board of fish and game commissioners of the State of California, or who transports, carries or takes from the state, or receives for the purpose of transportation from the state, the carcass of any such animal or any such bird, or any part of the carcass of any such animal or bird, is guilty of a misdemeanor. [Amendment approved April 6, 1917; Stats. 1917, p. 77.]

§ 627b. Shipment of more than limit of certain game. Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports, for any one person during any one calendar

day; or any person who ships or offers for shipment or transportation during any one calendar day, more than the bag limit of wild birds or wild animals or fish allowed to be taken, caught, killed or possessed during any one calendar day, is guilty of a misdemeanor.

Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports for any one person, between sunrise of one Sunday and sunrise of the following Sunday; or any person who ships or offers for shipment or transportation between sunrise of one Sunday and sunrise of the following Sunday, more than the bag limit of wild birds or wild animals or fish allowed to be taken, caught, killed or possessed between sunrise of one Sunday and sunrise of the following Sunday, is guilty of a misdemeanor.

Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports for any one person during any one season; or any person who ships or offers for shipment or transportation during any one season, more than the seasonal bag limit of wild birds or wild animals or fish allowed to be taken, caught, killed or possessed during any one season, is guilty of a misdemeanor.

Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports, or any person who ships or offers for shipment or transportation any wild birds or wild animals or fish, unless the same are at all times in open view, labeled with the name and residence of the shipper and the name and residence of the actual consignee and the exact contents as to kind and species of wild birds or wild animals or fish contained in the package offered for shipment or transportation; or any person who ships any of the wild birds or wild animals or fish by parcel post is guilty of a misdemeanor.

All acts and parts of acts inconsistent with this act are hereby repealed. [Amendment approved May 18, 1917; Stats. 1917, p. 651.]

§ 628. **Protection of shrimp. Spiny lobster. Crab. Caught below Mexican boundary.** Every person who, at any time offers for shipment or ships, or who receives for shipment or transportation from the state of California to any place in any other state, territory or foreign country, or who has in his possession, for any purpose any dried

shrimp or shrimp shells of shrimp caught or taken in the waters of this state, shall be guilty of a misdemeanor; and be it provided, that the possession of such dried shrimp or shrimp shells for any purpose shall be prima facie evidence that such dried shells are of shrimp which were caught or taken in the waters of this state. Every person who, between the first day of March and the fourteenth day of October inclusive of any year, takes, catches, kills, has in possession, buys, sells or offers for sale any spiny lobster (Panulirus interruptus), or who at any time takes, catches, kills, has in possession, buys, sells, or offers for sale any spiny lobster (Panulirus interruptus), of less than ten and one-half inches or more than sixteen inches in length, measured from one extremity to the other and exclusive of legs, claws or feelers, shall be guilty of a misdemeanor. Every person who, at any time takes, catches, kills, has in his possession, buys, sells, or offers for sale any crab (Cancer magister), of less than seven inches in breadth measured straight across the back from point to point, or any female crab (Cancer magister), or who, between the thirty-first day of July and the fourteenth day of November, inclusive, of any year, takes, catches, kills, has in possession, buys, sells or offers for sale any crab (Cancer magister), shall be guilty of a misdemeanor. Any person who shall at any time, pickle, can or otherwise preserve any spiny lobster (Panulirus interruptus) or crab (Cancer magister) or who shall at any time, sell any spiny lobster (Panulirus interruptus) or crab (Cancer magister), meat not in the shell of any such spiny lobster (Panulirus interruptus) or crab (Cancer magister) or who shall bring to shore any part or portion of any spiny lobster (Panulirus interruptus) or crab (Cancer magister) without the remaining portions of such spiny lobster (Panulirus interruptus) or crab (Cancer magister) in such condition that the size of such spiny lobster (Panulirus interruptus) or crab (Cancer magister) can not be measured shall be guilty of a misdemeanor.

Every person who ships or offers for shipment or transportation any species of crab taken in fish and game districts five, six, seven, seven A, eight and nine, is guilty of a misdemeanor.

None of the provisions of this act shall apply to spiny lobster caught or taken without the waters of this state, when said spiny lobsters are not caught in waters lying south for a distance of ten miles from the international boundary line between the United States and Mexico, extended westerly in

the Pacific ocean, and bearing after inspection such evidence of having been so caught or taken as may be hereafter prescribed by the fish and game commission; and be it provided, that all the expense of such inspection shall be borne by the importer of such spiny lobster; and be it provided, further, that all spiny lobster imported into this state shall be of the size prescribed in this action. [Amendment approved May 28, 1917; Stats. 1917, p. 1062.]

§ 628a. Protection of bass. Shad. Limit. Every person, who at any time, buys, sells, offers for sale or has in his possession any striped bass of less than three pounds in weight, or who, except with hook and line and in the manner commonly known as angling, takes, catches, kills or has in his possession any striped bass or shad between the twenty-fifth day of September and the fourteenth day of November inclusive of any year or between the sixth day of June and the thirty-first day of July, both dates inclusive, of any year, or who, between the twenty-fifth day of September and the fourteenth day of November, inclusive, or between the sixth day of June and the thirty-first day of July, inclusive, of any year, takes, catches, kills or has in his possession more than five striped bass or shad, or who between the twenty-fifth day of September and the fourteenth day of November, inclusive, or between the sixth day of June and the thirty-first day of July, inclusive, of any year, buys, sells, offers for sale, ships or offers for shipment or receives for shipment or transportation any striped bass, or who at any time, offers for shipment, ships or receives for shipment or transportation from the State of California to any place in any other state, territory or foreign country any striped bass is guilty of a misdemeanor. Every person who takes any striped bass or shad in a net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor. Every person who shall cast, extend or draw, or assist in casting, extending or drawing any net or seine, for the purpose of taking or catching any shad or striped bass in any of the waters of this state at any time between sunrise of each Saturday and sunset of the following Sunday is guilty of a misdemeanor; provided, however, that nothing in this section shall prohibit any person from having in his possession in any one calendar day, not more than five striped bass of less than three pounds each in weight, caught with hook and line, but such fish shall not be bought, sold or offered for sale, or

shipped or offered for shipment. Every person who violates any of the provisions of this section is guilty of a misdemeanor. [Amendment approved May 18, 1917; Stats. 1917, p. 668.]

§ 628b. Protection of black bass, perch, sunfish, etc. Exception. Protection of catfish. Exception. Every person who at any time, except with hook and line and in the manner commonly known as angling, takes, catches or kills any black bass, Sacramento perch, crappie, calico bass or any variety of sunfish, or has in his possession more than twenty-five black bass, Sacramento perch, crappie, calico bass or any variety of sunfish, during one calendar day, or who takes, catches, kills or has in his possession any black bass less than seven inches in length, or who buys, sells, offers or exposes for sale any black bass, Sacramento perch, crappie, calico bass or any variety of sunfish; every person who in any fish and game district, between the first day of December and the thirtieth day of April of the year following, both dates inclusive, takes, catches, kills or has in his possession any black bass, Sacramento perch, crappie, calico bass or any variety of sunfish, is guilty of a misdemeanor.

Nothing in this section shall prohibit the taking of black bass at any time in any lake exceeding seventy-five square miles in area within the boundaries of fish and game district number two, or prohibit the possession within the boundaries of fish and game district number two, of black bass taken in such lake or lakes.

Every person who, at any time, has in his possession for sale, or sells, or offers for sale, any catfish, between the fifteenth day of May and the fourteenth day of August, inclusive, of any year, or who at any time has in his possession for sale, or sells, or offers for sale, any dressed catfish, which shall measure less than seven inches in length, exclusive of any part of the head, or who at any time has in his possession for sale, or sells, or offers for sale, any undressed catfish less than nine inches in length, or who retains any catfish in live cars or boats that do not measure nine inches in length, or who at any time within a period of five years, kills or has in his possession any sturgeon, is guilty of a misdemeanor.

Nothing in this section, or elsewhere in this code, shall prohibit the state fish and game commission, or persons authorized by it, from taking at all times such fish as they may deem necessary for scientific purposes, or for purposes of

propagation. [Amendment approved May 18, 1917; Stats. 1917, p. 664.]

§ 628e. Protection of whiting. Yellow-fin or spot-fin croaker. Barracuda. Every person who in fish and game district number nineteen at any time except with hook and line, takes, catches or kills any California whiting (Menticirrhus undulatus), also known as surf fish, or any yellow-fin or any spot-fin croaker; every person who, at any time within the period of three years, buys, sells, offers, or exposes for sale any California whiting (Menticirrhus undulatus), also known as surf fish, or any yellow-fin or any spot-fin croaker; every person who, at any time buys, sells, offers or exposes for sale any southern, bastard or chicken halibut (Paralichthys californicus) of less than four pounds in weight, or any barracuda less than three pounds in weight, or any albicore weighing less than six pounds, is guilty of a misdemeanor. And all fines collected for any violation of any of the provisions of this section shall be paid into the state treasury to the credit of the "fish commission fund." [Amendment approved April 20, 1917; Stats. 1917, p. 153.]

§ 628f. Protection of abalone. Pismo clams. Cockles. Razor clams. Penalty. Every person who, between the first day of February and the last day of February of the same year, both dates inclusive, takes, catches, kills, or has in his possession any red abalone (Haliotis rufescens), or who, between the first day of February and the thirtieth day of April of the same year, both dates inclusive, takes, catches, kills or has in his possession any pink abalone (Haliotis corrugata), or any black abalone (Haliotis crackerodie), or any green abalone (Haliotis fulgens) is guilty of a misdemeanor. Every person who at any time, takes, catches, kills or has in his possession any red abalone (Haliotis rufescens) the shell of which is less than seven inches in greatest diameter, or any green abalone (Haliotis fulgens) the shell of which is less than six and one-half inches in greatest diameter, or any pink abalone (Haliotis corrugata) the shell of which is less than six inches in greatest diameter, or any black abalone (Haliotis crackerodie) the shell of which is less than five inches in greatest diameter, or who by any means whatsoever, takes, or catches any abalone (Haliotis) and does not bring the same naturally attached to the shell and alive, to the shore above high-water mark, or who takes, catches or kills any abalone (Haliotis) for other than food purposes, or who, at any time,

dries any abalones (Haliotis), or who offers for shipment, or ships, or receives for shipment or transportation from the State of California to any place in any other state, territory or foreign country any abalone meat or abalone shells, excepting articles manufactured from abalone shells; or who takes, catches, kills or has in his possession any abalone (Haliotis) taken, caught or killed with a spear shall be guilty of a misdemeanor. Every person who, in fish and game districts seventeen, nineteen and twenty of this state, uses or assists in using any diving apparatus of any character for the taking or catching of any abalone (Haliotis), or who, in fish and game districts four or nineteen, takes, catches or kills or has in possession during any one calendar day more than ten abalone (Haliotis); or who, in fish and game district seventeen takes, catches, kills or has in possession more than twenty abalone in any one calendar week shall be guilty of a misdemeanor.

None of the provisions of this act shall apply to abalone caught or taken without the waters of this state and bearing after inspection such evidence of having been so caught or taken as may be hereinafter prescribed by the fish and game commission; and, be it provided, that the expense of such inspection shall be borne by the importer of such abalone (Haliotis).

Every person who gathers or takes in any manner or has in his possession any clam known as the Pismo clam (Tivela stultorum) which shall measure less than four and three-quarters inches across its shell in the greatest breadth, or who, during any one calendar day, takes, gathers in any manner or has in his possession more than fifty of said clams, or who, between the first day of May and the thirty-first day of August, both dates inclusive, of any year, takes, catches or gathers any clams in fish and game district seventeen is guilty of a misdemeanor.

Every person who takes, gathers in any manner or has in his possession, or who ships, offers for shipment, sells or offers for sale any cockles or little-neck clams (Tapes staminea) measuring less than one and one-half inches in its greatest breadth; every person who takes, catches or gathers in any manner any razor clam (Siliqua patula), except during a period of forty-eight hours beginning at the first low tide after the first high tide (large water) of the full moon of each month and for a period of forty-eight hours beginning at the first mean low tide after the first high tide (large water) of the new moon of each month, or who takes, catches or gathers in

any way more than fifty of said razor clams (Siliqua patula) during any one calendar day is guilty of a misdemeanor.

Every person who takes, catches or kills or has in possession any clam or clams taken from fish and game districts eight or nine, between the first day of May and the thirty-first day of August of any year, both dates inclusive; or who at any time ships or offers for shipment or receives for shipment or transportation, to any place outside the limits of fish and game district one, any clam or clams of any species taken in fish and game district seven, eight or nine, is guilty of a misdemeanor.

Every person violating any of the provisions of this section upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than five hundred dollars or by imprisonment in the county jail in the county in which the conviction shall be had not less than ten days nor more than six months or by both such fine and imprisonment; and all fines and forfeitures imposed or collected for any violation of the provisions of this section must be paid into the state treasury to the credit of the fish and game preservation fund. [Amendment approved May 18, 1917; Stats. 1917, p. 669.]

§ 628j. **Catching salt water eels. Penalty.** Every person, who in fish and game district three, in the state of California, takes, catches, kills or has in his possession, any salt water eel (Blenniidoe), measuring less than twelve inches in length, or who takes, catches, kills or has in his possession more than fifteen salt water eels (Blenniidoe), during any one calendar day, is guilty of a misdemeanor.

Every person found violating any of the provisions of this section is guilty of a misdemeanor and must be fined in a sum not less than twenty dollars, nor more than five hundred dollars, or by imprisonment in the county jail in the county in which the conviction shall be had, not less than ten days, nor more than one hundred fifty days, or by both such fine and imprisonment; and all fines and forfeitures imposed or collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund. [New section approved April 24, 1917; Stats. 1917, p. 192.]

§ 629. **Fish screens over ditch inlets.** It shall be the duty of the state board of fish and game commissioners to examine from time to time all mill races, irrigating ditches, pipes, flumes and canals taking or receiving water from any

river, creek, stream or lake in this state. Whenever in the opinion of the state fish and game commission it shall be necessary to screen any such mill race, irrigating ditch, pipe, flume or canal in order to prevent fish from passing through or into such mill race, irrigating ditch, pipe, flume or canal and away from any river, creek, stream or lake in which fish have been planted or may exist, the state fish and game commission shall order the person, company or corporation owning, leasing, controlling or having in charge any such mill race, irrigating ditch, pipe, flume or canal to install and maintain a screen on such mill race, irrigating ditch, pipe, flume or canal. Said order shall be in writing and shall specify the size, mesh, material and location of such screen and the time within which said screen must be installed.

After making an order to place and maintain such screen, the board of fish and game commissioners shall, when requested by said owners, lessees or operators, or the person in charge of such mill race, irrigating ditch, pipe, flume or canal, fix a time and place in the county in which the intake of such mill race, irrigating ditch, pipe, flume or canal is situated, for the taking of evidence upon the question of the necessity of placing and maintaining such screen and cause a notice in writing of the time and place of hearing to be served upon such owner, lessee or operator or person in charge of such mill race, irrigating ditch, pipe, flume or canal, at least ten days before the date of such hearing. At such time and place designated in said notice testimony, under oath, shall be taken on the part of the state board of fish and game commissioners, and the owners, lessees or operators or persons in charge of such mill race, irrigating ditch, pipe, flume or canal.

If said request for a hearing upon the order herein specified is not made within ten days after the service upon said owners, lessees, or operators, or the person in charge, of said mill race, irrigating ditch, pipe, flume or canal, such order shall become final.

If it appears from the evidence upon such hearing that fish exist or have been planted in the river, stream, creek or lake from which said mill race, irrigating ditch, pipe, flume or canal takes its waters, said board of fish and game commissioners shall make an order in writing, and cause the same to be served on such owner, lessee, operator or person in charge of said mill race, irrigating ditch, pipe, flume or canal; said order shall designate the point on said mill race, irrigating ditch, pipe, flume or canal at which said screen shall be

located, and the size, mesh and materials of said screen and the time within which said screen must be installed. Said time shall be not less than thirty days, nor more than six months, from the date of service of said order upon said owner, lessee, operator or person in charge of said mill race, irrigating ditch, pipe, flume or canal.

The evidence in any investigation, inquiry or hearing, provided by this section, may be taken by any of the members of the board of fish and game commissioners, or such deputy fish and game commissioner, or employee, as the board may designate to take such evidence, and each member of the board and any of its deputies or employees designated to take evidence at the hearing provided hereby shall have the power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses at such hearings. Each witness, legally subpoenaed, attending at a hearing, shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed.

The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held under authority of this section shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, as required by any subpoena issued under authority of this section. The commission, or representative of the commission, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission or its representative, in the cause or proceeding named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission or its representative. The court, upon the petition of the commission or its representative, shall enter an order directing the witness to appear before the court, at a time and place to be fixed by the court in such order, the time to be not more than

ten days from the date of the order, and there show cause why he has not attended and testified or produced said papers before the commission or its representative. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or its representative, the court shall thereupon enter an order that said witness appear before the commission or its representative at the time and place fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

The commission or its representative, or any party, may, in any investigation or hearing before the commission or its representative, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state and to that end may compel the attendance of witnesses and the production of documents and papers.

Any person, company or corporation, neglecting or refusing to put up or maintain the screen ordered by the state board of fish and game commissioners, after the order shall have become final, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars, or imprisonment in the county jail of the county in which the conviction shall be had of not less than ten days, or by both such fine and imprisonment, any fines collected over and above the costs of the proceedings to be paid into the state treasury to the credit of the fish and game preservation fund; and provided, that the continuance from day to day of the neglect or refusal to install and maintain such screen after the same is finally ordered shall constitute a separate offense for each day. [Amendment approved April 20, 1917; Stats. 1917, p. 155.]

§ 631d. License to raise domesticated game birds or mammals. 1. Any person desiring to engage in the business of raising and selling domesticated game birds or mammals of any species in a wholly inclosed preserve or entire island of which he is the owner or lessee, may make application in writing to the state board of fish and game commissioners for a license so to do. The said state board of fish and game commissioners, when it shall appear that the said application is made in good faith, shall, upon the payment of a fee of two dollars and fifty cents, issue to such applicant a breeder's license permitting such applicant to breed and

raise domesticated game on such preserve or entire island and to sell the same alive at any time for breeding and stocking purposes, to kill and transport same and sell the carcasses thereof for food, as hereinafter provided. Such license shall be posted or displayed in a conspicuous place on such preserve or entire island and shall expire on the last day of December in each year at midnight.

2. **Game for sale tagged. Report of game killed.** No domesticated game killed as aforesaid and intended for sale shall be shipped, transported, sold or offered for sale unless each quarter and each loin of each carcass of each deer and the carcass of each bird or small mammal shall have been tagged, under the supervision of the state board of fish and game commissioners, with a tag or seal which shall be supplied by said commissioners, and all domesticated game excepting deer sold under the provisions of this act must be killed otherwise than by shooting. The quarters and loins of the carcasses of such deer, and the carcass of such small game birds or mammals when tagged as aforesaid may be possessed, sold or offered for sale at any time. Every regular assistant or person designated by whom such deer or small game bird or mammal shall have been tagged, shall, within five days thereafter, make and file with the state board of fish and game commissioners a written report thereof, which shall contain a statement of the name of the person by whom such game was bred or raised and killed, the number of each species so killed and the name of the person or persons to whom such game were sold or to whom they were transported.

3. **Tag on package.** Common carriers may receive and transport at any time the carcasses or parts thereof of said domesticated game tagged as aforesaid, but to every package containing such carcass or parts thereof shall be affixed a tag or label upon which shall be plainly printed or written the name of the person to whom such license was issued and by whom such game was killed, the name or names of the person or persons to whom such game is to be transported, the name of the regular assistant or other person by whom such game was tagged, the number of carcasses or portions thereof contained therein and that the game was killed and tagged in accordance with the provisions of this section.

4. **License. Sale to customer.** No person shall sell or offer for sale any game killed and tagged as aforesaid, without first obtaining a license so to do from the state board of

fish and game commissioners, upon such terms and conditions as the said commissioners may prescribe, and any such license may be revoked for sufficient cause at the pleasure of the said commission. The said tags or seals shall remain affixed, as aforesaid, until the quarters or loins of each deer or the carcasses of such small game birds or mammals shall have been wholly consumed and the sale of a quarter or loin or any larger portion of such deer or the carcass of any such small game bird or mammal which shall not at the time have affixed thereto the tag or seal aforesaid, shall constitute a violation of this section; provided, however, that the keeper of a hotel or restaurant, boarding-house or retail dealer in meat or a club may sell portions of a quarter or loin of any such deer, or the carcass of any such small game bird or mammal, to a patron or customer for actual consumption and no license shall be required of such person or club.

5. **Annual report of game killed.** On or before the first day of January of each year every person to whom a license shall have been issued, as aforesaid, shall make a report to the state board of fish and game commissioners, which said report shall state the total number of game birds or mammals killed, sold or transported, as permitted by the provisions of this section during the year preceding. Such report shall set forth the name of the person to whom such game birds or mammals were sold or transported, the name of the regular assistant or person designated in whose presence such game birds or mammals were tagged and shall also give a complete list of the game birds or mammals held in his possession at the time the report is made. Such report shall be verified by the affidavit of the person to whom such license was issued, or if the license was issued to a corporation, then by an officer thereof.

6. **Live game may be shipped.** Any person to whom such license shall have been issued may sell and ship alive within the state such game birds and mammals and all common carriers and transportation companies may receive and carry within the state such live game birds and mammals upon such terms and conditions as the said commissioners may prescribe.

7. **Trapping game by commission.** For the purpose of this act, it shall be lawful for the fish and game commission to trap and take alive any of the game birds or mammals and dispose of them to any person engaged in the domestication

and sale of such game birds or mammals in this state at a price to be fixed by the fish and game commission.

8. **Disposition of moneys.** All moneys received from the sale of any game birds or mammals, or tags provided for in this act and all fines and forfeitures imposed and collected for any violation of the provisions of this act shall be paid into the state treasury to the credit of the fish and game preservation fund.

9. **Fence about deer preserve.** A preserve used for the breeding of any species of deer, pursuant to this section, shall be surrounded by a fence of wire or other material of a pattern to be approved by the state board of fish and game commissioners and of a height of not less than seven feet.

10. **License revoked.** If any person to whom such license shall have been issued shall be convicted of a violation of any of the fish and game laws of the state, the state board of fish and game commissioners may revoke the license of such person and thereafter no similar license shall be issued to such person.

11. **Fees.** The state board of fish and game commissioners shall be entitled to receive and collect for each tag or seal affixed to the carcass of any game bird or mammal, as hereinbefore provided, the sum of three cents.

12. **Penalty. Laws not applicable.** Any person who violates or fails to perform any duty imposed by any of the provisions of this act is guilty of a misdemeanor and is liable to a penalty of one hundred dollars and to an additional penalty of twenty dollars for each game bird or mammal, or part of each game bird or mammal bought, sold or offered for sale, taken, possessed, transported or has in possession for transportation in violation thereof.

The provisions of any law relating to the protection or possession of game in its wild state shall not apply to game raised or possessed under the provisions of this act. [Amendment approved May 26, 1917; Stats. 1917, p. 1620.]

§ 631e. Revocation of licenses. Every person to whom a hunting, angler's, market fisherman's, or wholesale dealer's license has been issued, upon the third conviction for a violation of any of the laws enacted for the protection of fish or game shall, in addition to the penalty prescribed therefor, surrender his license to the judge or jus-

tice of the peace before whom such conviction is had; and such judge or justice of the peace shall revoke the hunting license of any person convicted of violating any law enacted for the protection of game, or the angler's license of any person convicted of violating any law enacted for the protection of game fish, or the market fisherman's license of any person convicted for violating any law enacted for the protection of fish, or the wholesale dealer's license of any person convicted for violating any law enacted for the protection of fish or game, and no new license shall be issued to such person for the remainder of the year for which it was issued. [Amendment approved June 1, 1917; Stats. 1917, p. 1640.]

§ 632. Protection of trout. Limit. Domesticated trout. Scientific purpose. Penalty. Every person who, at any time, takes, catches or kills any trout except with hook and line and in the manner commonly known as angling is guilty of a misdemeanor.

Every person who, in fish and game districts numbers two, two A, three, three A, three B, three C, three D, ten, eleven, twelve, thirteen, fifteen, sixteen, seventeen, eighteen, and nineteen, between the first day of March and the thirty-first day of March, of the same year, both dates inclusive; or who, between the first day of November and the fourteenth day of December, of the same year, both dates inclusive, takes, catches, kills, buys, sells, offers or exposes for sale, barter or trade, or has in his possession, any variety of trout is guilty of a misdemeanor; provided, that nothing in this section shall apply to Dolly Varden trout (Salvelinus malma or Salvelinus parkei) when taken in a legal manner and in open season for other trout in the same district; provided, further, that nothing in this section shall prohibit the taking of steelhead trout by means of nets in fish and game districts five, six, and seven A in such quantities and at such times and in such manner as is provided for the taking of salmon in those districts; nor the sale of such trout within the state, when the same shall be offered for sale according to regulations to be prescribed by the fish and game commission.

Every person who, in fish and game districts numbers one, one A, one B, one C, one D, one E, one F, one G, one H, one I, one J, one K, one L, five, six, seven, seven A, eight and nine, between the first day of November and the thirty-first day of March of the year following, both dates inclusive, takes,

catches, kills, sells, offers or exposes for sale, barter or trade, or has in his possession, any variety of trout is guilty of a misdemeanor.

Every person who, in fish and game districts four, four A, four B, four C, four D, four E, and twenty-one, between the first day of December and the thirtieth day of April of the year following, both dates inclusive, takes, catches, kills, buys, sells, offers or exposes for sale, barter or trade, or has in his possession any variety of trout, is guilty of a misdemeanor.

Every person who, in fish and game districts numbers twenty-three, twenty-four and twenty-five, between the first day of November and the twenty-ninth day of May of the year following, both dates inclusive, takes, catches, kills, buys, sells, offers or exposes for sale, barter or trade, or has in his possession, any variety of trout or white fish; every person who, in fish and game district number twenty-three, between the first day of November and the thirty-first day of July of the year following, both dates inclusive, takes, catches, or kills any trout or white fish in any stream flowing into any lake within two miles extending from its mouth toward its source, or who buys, sells, offers or exposes for sale, barter or trade, or has in his possession, any trout or white fish so taken in such stream, is guilty of a misdemeanor.

Every person who, between the first day of November and the thirty-first day of July of the year following, both dates inclusive, takes, catches or kills any trout in any lake within three hundred feet of the mouth of any stream flowing into any lake, or who has in his possession or buys, sells, offers or exposes for sale, barter or trade any such trout, is guilty of a misdemeanor.

Every person who takes, catches, kills or has in his possession during one calendar day more than fifty trout, or ten pounds of trout, and one trout, or one trout weighing ten pounds and over, is guilty of a misdemeanor; provided, that every person who, in fish and game districts two, two A, three, three A, three B, three C, three D, eleven, twelve, thirteen, fifteen, sixteen, seventeen, eighteen and nineteen, between the fifteenth day of December and the last day of February of the following year, both dates inclusive, takes, catches, kills or has in his possession during one calendar day more than five trout, regardless of weight, is guilty of a misdemeanor.

Nothing in this section shall apply to trout raised under the provisions of the act authorizing and regulating the raising and selling of domesticated trout.

Nothing in this section shall prohibit the fish and game commission of this state, or persons authorized by them, from taking at all times such trout as they deem necessary for the purposes of propagation, or for scientific purposes.

Every person found guilty of a violation of any of the provisions of this section shall be punishable by a fine of not less than twenty-five dollars, or more than five hundred dollars, or by imprisonment in the county jail of the county in which the conviction shall be had not less than ten or more than one hundred fifty days, or by both such fine and imprisonment. All fines and forfeitures imposed and collected for any violation of any of the provisions of this section shall be paid into the state treasury to the credit of the fish and game preservation fund.

All acts or parts of acts inconsistent herewith are hereby repealed. [Amendment approved May 28, 1917; Stats. 1917, p. 1247.]

§ 632c. Sale of trout a misdemeanor. In effect, when. Every person who buys, sells, offers or exposes for sale, barter or trade, any species of trout, except domestically reared trout, in the state of California, is guilty of a misdemeanor. Every person violating any of the provisions of this section is punishable by a fine of not less than twenty dollars, nor more than five hundred dollars, or by imprisonment in the county jail of the county in which the conviction shall be had for not less than ten days, nor more than one hundred fifty days, or by both such fine and imprisonment. All fines and forfeitures imposed and collected for violation of any of the provisions of this section shall be paid into the state treasury to the credit of the fish and game preservation fund. The provisions of this section shall not take effect until the thirty-first day of October, one thousand nine hundred seventeen. [New section added April 17, 1917; Stats. 1917, p. 140.]

§ 633. Protection of golden trout. Every person who, at any time between the first day of October and the thirtieth day of June of the succeeding year, takes, catches, kills, destroys or has in his possession, any variety of golden trout; or who, at any time, takes, catches, kills, or destroys, any variety of golden trout, other than with hook and line; or who, at any time, takes, catches, kills, or destroys, or has in his possession, during one calendar day, more than twenty golden trout or has in his possession any variety of

golden trout of less than five inches in length, is guilty of a misdemeanor. Every person found guilty of any violation of any of the provisions of this section must be fined in a sum not less than twenty dollars or be imprisoned in the county jail, in the county in which the conviction shall be had, not less than ten days, or be punished by both such fine and imprisonment, and all fines collected for any violation of any of the provisions of this section must be paid into the state treasury to the credit of the fish commission fund. Nothing in this section shall prohibit the fish commission of this state from taking at all times such golden trout as they deem necessary for the purpose of propagation or for scientific purposes. [Amendment approved May 18, 1917; Stats. 1917, p. 665.]

§ 634. Protection of salmon. 1. Every person who shall cast, extend or draw or assist in casting, extending or drawing, any net or seine for the purpose of taking or catching any salmon at any time during the closed seasons, as provided in this act, or at any time between sunrise of Saturday and sunset of the following Sunday, is guilty of a misdemeanor.

2. **In districts one, two, three and four.** Every person who, in fish and game districts numbers one and two, except with spear and hook and line, said hook and line to be used in the manner commonly known as angling, takes, catches or kills any salmon; every person who, in fish and game districts numbers three and four, except with hook and line, said hook and line to be used in the manner commonly known as angling, takes, catches or kills any salmon; every person who, in fish and game districts one, two, three and four, between the sixth day of June and the thirty-first day of July of the same year, both dates inclusive, or between the twenty-fifth day of September and the fourteenth day of November of the same year, both dates inclusive, takes, catches, kills or has in his possession more than three fresh salmon during any one calendar day, or who buys, sells, offers or exposes for sale any fresh salmon, is guilty of a misdemeanor; provided, that nothing in this act shall prohibit the possession or sale at any time of any salmon from without the state, or the possession or sale at any time of any salmon lawfully taken in any fish and game district, other than fish and game districts numbers one, two, three and four, when such salmon are inspected and tagged according to regulations to be prescribed by the fish and game commission. The cost of

such inspection and tagging must be paid by the person or persons submitting such salmon for said inspection and tagging.

3. **In district five.** Every person who, in fish and game district five, between the first day of December and the thirty-first day of August of the year following, both dates inclusive, takes, catches or kills any salmon, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," or takes, catches, kills or has in his possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale, any fresh salmon, or who, at any times, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor.

4. **In district six.** Every person who, in fish and game district six, between the first day of December and the fourteenth day of April of the year following, both dates inclusive, or betweeen the first day of June and the thirtieth day of June of the same year, both dates inclusive, or between the sixth day of September and the nineteenth day of September of the same year, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches or kills or has in his possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches in length, or who uses any net for the purpose of catching salmon in the daytime between the hours of 6 A. M. and seven P. M. between the first day of August and the fifth day of September of the same year, both dates inclusive, is guilty of a misdemeanor.

5. **In district seven.** Every person who, in fish and game district seven, between the first day of December and the thirty-first day of July of the year following, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches, kills or has in possession more than three fresh salmon in any one

calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who at any time takes, catches, or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches in length, is guilty of a misdemeanor.

6. **In district seven A.** Every person who, in fish and game district seven A, between the eighth day of December and the seventh day of October of the year following, both dates inclusive, takes, catches, kills or has in possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who at any time takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches in length is guilty of a misdemeanor.

7. **In districts eight and nine.** Every person, who, in fish and game districts eight and nine, between the first day of December and the thirtieth day of September of the year following, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches, kills or has in possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches, or kills any salmon with any net any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches in length, is guilty of a misdemeanor.

8. **In districts ten, eleven, twelve, etc.** Every person who, in fish and game districts ten, eleven, twelve, twelve B and thirteen, between the sixth day of June and the thirty-first day of July of the same year, both dates inclusive, or, between the twenty-fifth day of September and the fourteenth day of November of the same year, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches, kills or has in his possession more than three fresh salmon in one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor.

9. **In district twelve A.** Every person who, in fish and game district twelve A, between the fifteenth day of May and the thirty-first day of December of the same year, both dates inclusive, takes, catches or kills any salmon, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," or takes, catches, kills or has in his possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length is guilty of a misdemeanor.

10. **In district fifteen.** Every person who, in fish and game district fifteen, from the first day of September to the fourteenth day of April of the year following, both dates inclusive, takes, catches or kills any salmon, or who, at any time takes, catches or kills any salmon in any net is guilty of a misdemeanor.

11. **In districts sixteen, etc.** Every person who, in fish and game districts sixteen, seventeen, eighteen and nineteen, between the twenty-fifth day of September and the fourteenth day of November of the same year, both dates inclusive, has in his possession more than three fresh salmon in any one calendar day, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor.

12. **Salmon defined.** For the purpose of this act and all acts relating thereto, only such fish as belong to the genus Oncorhynchus shall be considered salmon.

13. **For propagation.** Nothing in this act shall prevent the fish and game commission of this state, or persons authorized by them, from taking, at all times, and in any manner, such salmon as they may deem necessary for the purpose of propagation, or for scientific purposes.

14. **Penalty.** Any violation of any of the provisions of this act shall be punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail of the county in which the conviction shall be had of not less than fifty days, nor more than six months, or by both such fine and imprisonment, and

all fines and forfeitures imposed and collected for violation of the provisions of this act shall be paid into the state treasury, to the credit of the fish and game preservation fund. [Amendment approved May 28, 1917; Stats. 1917, p. 1035.]

§ 636. Protection of fish. Use of nets. Every person who shall use or operate, or who shall assist in using or operating any net, trap, line or other appliance for the purpose of taking or catching fish, mollusks or crustaceans in the state of California at any time, or in any manner, except as hereinafter provided, is guilty of a misdemeanor.

Use of gill-nets in certain districts. It shall be lawful to use drift gill-nets in fish and game districts five, six, seven, seven A, eight, nine, ten, eleven, twelve, twelve A, twelve B, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty-two, and to use set gill-nets in fish and game districts seventeen, eighteen and nineteen; provided, that in fish and game districts eleven, twelve, twelve A, twelve B, and thirteen the cork line of any gill-net shall not be submerged more than twelve feet below the surface of the water, and that the lines attaching the buoys or floats to the cork line of such submerged nets be not more than twelve feet in length and that the points of attachment of said lines on the cork line be not more than ten fathoms apart; and provided, further, that in fish and game districts eleven, twelve, twelve A, twelve B, and thirteen the meshes of the gill-nets shall be approximately the same size and shall not vary in length more than one inch; and provided, that gill-nets are not to be used in fish and game districts twelve A or twelve B between September twenty-fifth and November fourteenth of any year, both dates inclusive, or between June sixth and July thirty-first of any year, both dates inclusive, and any gill-net found in any fishing boat in fish and game district twelve A or twelve B during said closed season shall be prima facie evidence that the owner of such net was using same in said fish and game districts; and provided, further, that no gill-nets are to be used or operated in fish and game district twelve between the first day of March and the thirty-first day of July of any year, both dates inclusive, the meshes of which measure between five and five-eighths inches and seven and one-half inches in length. Any lines used on gill-nets which shall tend to cause the webbing of such gill-nets to bag or hang slack shall cause such net to lose its identity as a drift gill-net and become a trammel-net.

Trammel-nets. It shall be lawful to use trammel-nets (also known as two mesh and three mesh nets) in fish and game districts ten, eighteen, and nineteen, the minimum meshes of which shall measure not less than eight inches in length.

Purse and round haul nets. It shall be lawful to use purse-nets and round haul-nets (also known as circle seines or lampara-nets) in fish and game districts five, six, nine, ten, eleven, twelve, twelve B, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty A, twenty-one and twenty-two; provided, that in fish and game district six, purse or round haul nets are not to be used for taking salmon or steelhead; and provided, further, that in fish and game district fifteen, purse or round haul nets shall be used only for the purpose of taking fish for bait, and that in fish and game district sixteen purse-nets or round haul-nets shall be used only for the purpose of taking squids, anchovies, and sardines; and provided, further, that round haul bait-nets or blanket bait-nets may be used in fish and game district twenty A for the purpose of taking anchovies or sardines for bait only; and provided, further, that it shall be unlawful for any boat to have in possession any net within district twenty A, other than round haul bait-nets or blanket bait-nets.

Beach-nets. It shall be lawful to use beach-nets (also known as beach-seines or haul seines) in fish and game districts five, nine, ten, eleven, twelve, twelve A, twelve B, thirteen, eighteen, nineteen and twenty-two; provided, that in fish and game districts five, twelve, twelve A and twelve B the meshes of any beach-nets shall measure not less than five and one-half inches in length, and that in fish and game districts ten, eighteen and nineteen the meshes of the beach-nets shall measure not less than one and one-half inches in length; and beach-nets shall only be used in fish and game district nineteen between the first day of September and the thirty-first day of January of the year following, both dates inclusive, and for the purpose of taking smelt only.

For the purpose of this act, any net hauled from the water to the beach or shore for the purpose of taking fish, shall be known as a beach-net.

Fyke-nets. It shall be lawful to use fyke-nets in fish and game district twelve B for the purpose of catching catfish, carp, pike, hard-heads and suckers between the fifteenth day of August and the fourteenth day of May of the year fol-

lowing, both dates inclusive; provided, that the smallest meshes of any fyke-net so used shall measure not less than two and one-half inches in length.

Trawl-nets. It shall be lawful to use trawl-nets (also known as paranzella nets, beam trawls or shrimp trawls), in fish and game districts five, six, seven, thirteen and eighteen; provided, that the use of any trawl-net in fish and game district thirteen shall be for the purpose of taking shrimp only.

Crab-nets. It shall be lawful to use crab-nets in fish and game districts five, six, seven, eight, nine, ten, eleven, twelve, thirteen, seventeen, eighteen and nineteen, and lobster-traps in fish and game districts seventeen, eighteen and nineteen.

Shrimp-nets. It shall be lawful to use shrimp-nets (also known as Chinese shrimp or bag nets) in fish and game district thirteen for the purpose of taking shrimp only; provided, that any fish, mollusks or crustaceans other than marketable shrimp that may be taken in such shrimp-nets shall be immediately returned to the water.

Dip-nets. It shall be lawful to use dip-nets for the purpose of taking fish to be used as bait only, in any fish and game district, excepting fish and game district fourteen; provided, that in fish and game districts one, two, three and four such dip-net shall not be baited; and provided, further, that any dip-net in fish and game districts one, two, three, four, nineteen, twenty and twenty A shall not measure more than six feet in its greatest breadth.

Troll lines. It shall be lawful to use troll lines or hand lines in any fish and game district, except fish and game district fourteen, and to use trawl lines in fish and game districts five, six, seven, ten, seventeen, eighteen and nineteen. It shall also be lawful to use trawl lines (also known as set lines) in any lake in fish and game district two, having a surface area of not less than seventy-five square miles, for the purpose of catching catfish only; provided, that it shall be unlawful to use minnows or any species of young fish on hooks attached to such trawl lines.

Spade, shovel, etc. It shall be lawful to use any spade, shovel, hoe, rake or other appliance operated by hand for the purpose of taking mollusks in fish and game districts five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty-one.

Set-nets and lines. Any net or line shall be considered a set-net or set-line that is made fast to the bank or ground or that shall be made fast in any way and shall not be free to drift with the tide or current; provided, that fyke-nets, shrimp-nets or crab-nets shall not be considered set-nets, nor trawl lines be considered set lines. The length of the meshes of any net shall be determined by taking at least four meshes and measuring them between the knots while they are simultaneously drawn closely together.

Recovering fish from overflowed areas. Nothing in this section shall prevent the fish and game commission, or persons authorized by them, from using any net or other appliance in any fish and game district for the purpose of recovering fish from overflowed areas or landlocked sloughs or ponds where they have been left isolated by receding streams or flood waters.

Scientific investigation. Condemned nets. Nothing in this section shall prohibit the fish and game commission, or anyone authorized by them, from using such nets, traps or other appliances in the waters of the state as they may deem necessary for carrying on scientific investigation or for the propagation of fish, mollusks or crustaceans. Be it provided, that any net, duly condemned in accordance with the provisions of section six hundred thirty-six *a* of the Penal Code, shall be destroyed or sold by order of the fish and game commission, and when sold all proceeds collected for the sale of such net or nets shall be paid into the state treasury to the credit of the fish and game preservation fund.

Penalty. Every person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, or by imprisonment in the county jail of the county in which conviction shall be had not less than fifty days, or by both such fine and imprisonment; and all fines and forfeitures imposed and collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund. [Amendment approved May 28, 1917; Stats. 1917, p. 1043.]

§ 637. Fishways provided over or around dams. To be kept free from obstructions. Hatchery constructed when fishway impracticable. Planting of fish. Right of access.

Sale of young fish. Hearing on necessity for ladders. Orders of commission. 1. It shall be the duty of the state board of fish and game commissioners to examine, from time to time, all dams and artificial obstructions in all rivers and streams in this state naturally frequented by salmon, trout, shad and other fish; and if, in its opinion, there is not free passage for fish over and around any dam or artificial obstruction, to order in writing the owners or occupants thereof to provide the same, within a specified time, with a durable and efficient fishway, of such form and capacity, and in such location as shall be determined by the state board of fish and game commissioners, or persons authorized by them, and such fishway must be completed by the owners or occupants of such dam or artificial obstruction to the satisfaction of said commissioners, within the time specified; and it shall be incumbent upon the owners or occupants of all dams or artificial obstructions, where the state board of fish and game commissioners require such fishways to be provided, to keep the same in repair and open and free from obstructions to the passage of fish at all times; and no person shall willfully destroy, injure, or obstruct any such fishway; provided, that the owners or occupants of any dam or artificial obstruction shall allow sufficient water at all times to pass through such fishway to keep in good condition any fish that may be planted or exist below said dam or obstruction; provided, further, that during the minimum flow of water in any river or stream permission may be granted by the state board of fish and game commissioners to allow the owners or occupants of any dam or artificial obstruction to allow sufficient water to pass through a culvert, waste gate, or over or around the dam, to keep in good condition any fish that may be planted or exist below said dam or artificial obstruction, when in the judgment of the state board of fish and game commissioners it is impracticable to pass the water through the fishway to the detriment of the owner or occupant thereof.

Whenever in the opinion of the state fish and game commission it shall be impracticable, because of the height of any dam or other artificial obstruction, or other conditions, to construct a fishway over or around said dam or other artificial obstruction, the fish and game commission may order in lieu of said fishway the owners or occupants of said dam or other artificial obstruction to completely equip, within a specified time, on a site to be selected by said fish and game commission, a hatchery, together with dwellings for

help, traps for the taking of fish, and all other equipment necessary to operate a hatchery station, according to plans and specifications furnished by the fish and game commission, who shall thereafter operate said hatchery without further expense to said owner or occupant of said dam or other artificial obstruction. The aforesaid hatchery, traps and other equipment necessary to operate a hatchery station shall not be of a size greater than necessary to supply the said stream or river with a reasonable number of such fish. The said owners or occupants of said dam or other artificial obstruction shall permit said fish and game commission to locate the aforesaid hatchery, dwellings, traps and other equipment upon any of the land of the owners or occupants of said dam or other artificial obstruction upon a site or sites to be mutually agreed upon by the fish and game commission and the said owners or occupants of said dam or other artificial obstruction.

If the said owners or occupants of said dam or other artificial obstruction shall generate electricity at said place of said dam or other artificial obstruction, then and in that case said owners or occupants shall furnish sufficient light, without expense, for the use of said hatchery when located and established.

Said owners or occupants shall also permit the use of water, without expense, to operate said proposed hatchery; provided, however, that the fish and game commission may, in lieu of said fishway, hatchery, dwellings, traps and other equipment necessary to operate a hatchery station as aforesaid, order the owners or occupants of said dam or other artificial obstruction to plant, under the supervision of the fish and game commission, the young of such fish as naturally frequent the waters of said stream or river, at such times, in such places and in such numbers as the fish and game commission may order; provided, further, that said owners or occupants of said dam or other artificial obstruction shall accord to the public, for the purpose of fishing, the right of access to the waters impounded by said dam or other artificial obstruction, during the open season for the taking of fish in such stream or river, subject to the rules and regulations of said fish and game commission.

The said owners or occupants of said dam or other artificial obstruction shall not be liable in damages to any person exercising the right of access to the waters impounded by said dam or other artificial obstruction, as aforesaid, who shall suffer injury through coming in contact with, or

meddling with, any of the property of said owners or occupants.

The fish and game commission may sell, at cost to it, to such owners or occupants of such dam or other artificial obstruction the young of fish ordered to be planted in such stream or river.

Every person found guilty of any of the provisions of this act must be fined in a sum of not less than one hundred fifty dollars or imprisonment in the county jail of the county in which the conviction shall be had, not less than one hundred days, or by both such fine and imprisonment; and all fines and forfeitures imposed and collected for any violation of this act shall be paid into the state treasury, to the credit of the fish and game preservation fund.

After making any order to place and maintain such ladder, or to equip and convey such hatchery and site, or to plant such fish the state board of fish and game commissioners shall, when requested by the owners or parties in charge, fix a time and place, in the county in which the dam or other artificial obstruction is situated, for the taking of evidence upon the question of the necessity of placing and maintaining such ladder or of equipping and conveying such hatchery and site, or of planting such fish and cause notices in writing of such time and place where such hearing is to be held to be served upon the owners or persons in charge of such dam or other artificial obstruction, at least ten days before the day set for the hearing. If said request for a hearing upon the order to place and maintain such ladder or to equip such hatchery and site, or to plant such fish, is not made within ten days after the service of such order upon said owners or parties in charge of said dam or other artificial obstruction said order shall become final. At such time and place testimony, under oath, shall be taken, both on the part of the state board of fish commissioners and the owner or person in charge of such dam or other artificial obstruction, if such owner or persons in charge appears and offers evidence, and thereupon the state board of fish commissioners from the evidence offered shall determine whether or not the necessity for the placing and maintaining a ladder on said dam or other artificial obstruction or the equipping and conveying such hatchery and site or the planting of such fish is shown, and if shown to be required and necessary, said state board of fish commissioners may direct and order the placing and maintaining such ladder or the equipment and conveyance to the state of said hatchery, equip-

ment and site or the planting of such fish. Such order to also fix the point where the ladder or hatchery and equipment is to be located or the number of and place where such fish are to be planted, and a certified copy of such order to be served upon the owners or parties in charge of such dam or other artificial obstruction.

The evidence in any investigation, inquiry or hearing, provided by this section, may be taken by any of the members of the board of fish and game commissioners, or such deputy fish and game commissioner, or employee, as the board may designate to take such evidence, and each member of the board and any of its deputies and employees designated to take evidence at the hearing provided hereby shall have the power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses at such hearings. Each witness, legally subpoenaed, attending at a hearing, shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed.

The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held under authority of this section shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, as required by any subpoena issued under authority of this section. The commission or representative of the commission before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission or its representative, in the cause or proceeding named in the notice and subpoena, or has refused to answer questions propounded in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission or its representative. The court, upon the petition of the commission or its representative, shall enter an order directing the wit-

ness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before the commission or its representative. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or its representative, the court shall thereupon enter an order that said witness appear before the commission or its representative at the time and place to be fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

The commission or its representative or any party may, in any investigation or hearing before the commission or its representative, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state and to that end may compel the attendance of witnesses and the production of documents and papers. [Amendment approved June 1, 1917; Stats. 1917, p. 1524.]

§ 637a. Protection of wild birds. Game birds enumerated. Every person in the state of California who shall at any time kill or catch, or have in his possession, living or dead, any wild bird other than a game bird, or who shall purchase, offer or expose for sale, transport or ship within or out of the state, any such wild bird after it has been killed or caught, except as permitted by this act, shall be guilty of a misdemeanor. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale, irrespective of whether said bird was captured or killed within or without the state. For the purpose of this act the following only shall be considered game birds: The Anatidae, commonly known as swans, geese, brant and river and sea ducks; the Rallidae, commonly known as rails, coots and gallinules; the Limicolae, commonly known as shore birds, plover surf birds, snipe, sandpipers, tatlers and curlews; the Gallinae, commonly known as wild turkeys, grouse, prairie chicken, pheasants, partridges, and quails; and the species of Columbidae, known as wild pigeons and doves. All other species

of wild birds either resident or migratory shall be considered nongame birds; provided, that the English or European house sparrow, the great horned owl, sharp-shinned hawk, Cooper's hawk, duck hawk, butcher bird, bluejay, housefinch, commonly known as the California linnet, are not included among the birds protected by this act; and provided, further, that in fish and game district one, in fish and game district two and fish and game district three the blackbird is not included among the birds protected by this act; provided, further, that nothing in this section shall prohibit the killing of a robin, or other wild bird by the owner or tenant of any premises where such bird is found destroying berries, fruit or crops growing on such premises, but the birds so killed shall not be shipped or sold; and nothing in this act shall prevent a citizen of California from taking or keeping any wild nongame bird as a domestic pet if such bird shall not be sold or offered for sale, or transported out of the state, a permit to keep the same having first been obtained from the state board of fish and game commissioners. [Amendment approved May 18, 1917; Stats. 1917, p. 656.]

§ 637½. **"Predatory animals" defined.** Where the words "predatory animals" occur in this chapter, the following animals only shall be considered predatory animals: The order Insectivora (moles, shrews), the family Canidae (wolves, coyotes, foxes), the family Procyonidae (ringtail cats, coons), the family Mustelidae (martins, fishers, wolverines, weasels, minks, skunks, badgers), the family Felidae (cougars, wild cats, jack rabbits), the order Rodentia (rats, mice, gophers), except the families Sciuridae and Petauristidae (tree squirrels, flying squirrels), the black-tailed jackrabbit of the order Lagomorpha; and the following species of birds: blue jays, English or European house sparrow, great horned owl, sharp-shinned hawk, Cooper's hawk, duck hawk and house finch, commonly known as California linnet. [Amendment approved April 5, 1917; Stats. 1917, p. 44.]

§ 704. **Testimony before magistrate may be taken in shorthand.** When the person informed against is brought before the magistrate, if the charge be controverted, the magistrate must take testimony in relation thereto. The evidence must be reduced to writing and subscribed by the witnesses. The magistrate may, in his discretion, order the testimony and proceedings to be taken down in shorthand,

and for that purpose he may appoint a shorthand reporter. The deposition or testimony of the witnesses must be authenticated in the form prescribed in section eight hundred sixty-nine of this code. [Amendment approved April 20, 1917; Stats. 1917, p. 146.]

§ 928. **Grand jury to examine books.** It shall be the duty of the grand jury annually to make a careful and complete examination of the books, records, and accounts of all the officers of the county, and especially those pertaining to the revenue, and report as to the facts they have found, with such recommendations as they may deem proper and fit; and if, in their judgment, the services of an expert are necessary, they shall have power to employ one, at an agreed compensation, not to exceed ten dollars a day, to be first approved by the court; and if, in their judgment, the services of assistants to such expert are required, they shall have power to employ such, at a compensation to be agreed upon and approved by the court, not to exceed, however, five dollars a day for each assistant, such compensation of expert and assistants to be payable as other county charges. It shall be the duty of every grand jury first impaneled in even-numbered years to investigate and report upon the needs of all county officers in its county, including increase or decrease in salaries, number of officers, deputies or employees, the abolition or creation of offices and the equipment for, or the method or system of performing the duties of the several offices, and it shall cause a copy of such report to be transmitted to each member of the legislature representing the county in which it has been impaneled before the commencement of the regular session of the legislature in odd-numbered years. The judge, on impanelment of the grand jury, shall charge them especially as to their duties under this section; provided, that if any grand jury shall, in the report above mentioned, comment upon any person or official who has not been indicted by the said grand jury, the said comments shall not be deemed to be privileged. Any and all expenses incurred under this section and also the per diem of the grand jurors shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the superior court in said county. [Amendment approved April 24, 1917; Stats. 1917, p. 167.]

§ 1168. Term of imprisonment not fixed. (a) Every person convicted of a public offense, for which public offense punishment by imprisonment in any reformatory or the state prison is now prescribed by law, if such convicted person shall not be placed on probation, a new trial granted, or imposing of sentence suspended, shall be sentenced to be confined in the state prison, but the court in imposing such sentence shall not fix the term or duration of the period of imprisonment.

(b) **Maximum and minimum term.** It is hereby made the duty of the warden of the state prison to receive such person, who shall be confined until duly released as provided for in this act; provided, that the period of such confinement shall not exceed the maximum or be less than the minimum term of imprisonment provided by law for the public offense of which such person was convicted.

(c) **Information furnished state board of prison directors.** It shall be the duty of the judge before whom such convicted person was tried, and of the district attorney conducting the prosecution, to obtain and with the commitment furnish to the state board of prison directors in writing all information that can be given in regard to the career, habits, degree of education, age, nativity, nationality, parentage, and previous occupation, of such convicted person, together with a statement to the best of their knowledge as to whether such person was industrious or not, of good character or not, the nature of his associates and his disposition.

(d) **Length of term after expiration of minimum term.** The governing authority of the reformatory or prison in which such person may be confined, or any board or commission that may be hereafter given authority so to do, shall determine after the expiration of the minimum term of imprisonment has expired, what length of time, if any, such person shall be confined, unless the sentence be sooner terminated by commutation or pardon by the governor of the state; and if it be determined that such person so sentenced be released before the expiration of the maximum period for which he is sentenced, then such person shall be released at such time as the governing board, commission or other authority may determine.

(e) **Rules and regulations.** The state board of prison directors shall make all necessary rules and regulations to carry out the provisions of this act not inconsistent there-

with, and may provide the forms of all documents necessary therefor.

(f) **Discharge on serving maximum punishment.** Any convicted person undergoing sentence in either of the state prisons of this state, not sooner released under the provisions of this act shall, in accordance with the provisions of existing law, be discharged from custody on serving the maximum punishment provided by law for the offense of which such person was convicted. [New section added May 18, 1917; Stats. 1917, p. 665.]

§ 1202a. Imprisonment in state prison. If the judgment is for imprisonment in the state prison it shall direct that the defendant be taken to the warden of the state prison at San Quentin. Thereafter, and until the termination of the sentence, the state board of prison directors may transfer the defendant from one state prison to the other as in the opinion of the board conditions may require. [New section added May 18, 1917; Stats. 1917, p. 688.]

§ 1203. Hearing on probation. After plea or verdict of guilty, where discretion is conferred upon the court as to the extent of the punishment, the court, upon oral suggestions of either party, or of its own motion, that there are circumstances which may properly be taken into view, either in aggravation or mitigation, of the punishment, may in its discretion refer the same to the probation officer, directing said probation officer to investigate, and to report, recommending either for or against release upon probation, at a specified time, and the court shall hear the same summarily at such specified time, and upon such notice to the adverse party as it may direct. At such specified time, if it shall appear from the report furnished by the probation officer, or otherwise, and from the circumstances, of any person over the age of eighteen years so having pleaded guilty, or having been convicted of crime, that there are circumstances in mitigation of the punishment, or that the ends of justice shall be subserved thereby, the court shall have power, in its discretion, to place the defendant upon probation in the manner following:

(a) **Suspension of sentence. Bonds.** The court, judge or justice thereof, may suspend the imposing, or the execution of sentence and may direct that such suspension may continue for such period of time not exceeding the maximum possible term of such sentence, except as hereinafter set

forth, and upon such terms and conditions as it shall determine, which terms and conditions may include, in the discretion of the court, the requirements of bonds for the appearance of the person released upon probation before the court, at any time that the court may require such appearance in the investigation of any alleged violation of said terms and conditions of probation and such bonds may be at any time by the court exonerated without affecting any of the other terms or conditions of such probation; and in case of such suspension of imposition or execution of sentence, the court shall place such person on probation and under the charge and supervision of the probation officer of said court, during such suspension; provided, however, that where the maximum possible term of such sentence is less than two years, then such period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over two years. Where the offense consists of a violation of section two hundred seventy or two hundred seventy *a* of the Penal Code of the state of California, such suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years.

(b) **Opportunity to pay fine.** If the judgment is to pay a fine, and the defendant be imprisoned until it be paid, the court, judge or justice, upon imposing sentence, may direct that the execution of the sentence of imprisonment be suspended for such period of time, not exceeding the maximum possible term of such sentence, and on such terms as it shall determine, and shall place the defendant on probation, under the charge and supervision of the probation officer during such suspension, to the end that he may be given the opportunity to pay the fine; provided, however, that upon the payment of the fine being made, judgment shall be satisfied and the probation cease.

(c) **Rearrest. Judgment pronounced.** At any time during the probationary term of the person released on probation, in accordance with the provisions of this section, any probation officer may, without warrant, or other process, at any time until the final disposition of the case, rearrest any person so placed in his care and bring him before the court, or the court may, in its discretion, issue a warrant for the rearrest of any such person and may thereupon revoke and terminate such probation, if the interest of justice so requires, and if the court, in its judgment, shall have

reason to believe from the report of the probation officer, or otherwise, that the person so placed upon probation is violating the conditions of his probation, or engaging in criminal practices, or has become abandoned to improper associates, or a vicious life. Upon such revocation and termination, the court may, if the sentence has been suspended, pronounce judgment after the said suspension of the sentence for any time within the longest period for which the defendant might have been sentenced, but if the judgment has been pronounced and the execution thereof has been suspended, the court may revoke such suspension, whereupon the judgment shall be in full force and effect, and the person shall be delivered over to the proper officer to serve his sentence.

(d) **Court may revoke order.** The court shall have power at any time during the term of probation to revoke or modify its order of suspension, of imposition or execution of sentence. It may, at any time, when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation and discharge the person so held, but no such order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke or modify its order, and in all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall, at the end of the term of probation be by the court discharged.

(e) **Change of plea.** Every defendant who has fulfilled the conditions of his probation for the entire period thereof, or who shall have been discharged from probation prior to the termation of the period thereof, shall at any time prior to the expiration of the maximum period of punishment for the offense of which he has been convicted, dating from said discharge from probation or said termination of said period of probation, be permitted by the court to withdraw his plea of guilty and enter a plea of not guilty; or if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusation or information against such defendant who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted.

(f) **Probation officers to serve.** The same probation officers and assistant probation officers and deputy probation offi-

cers shall serve under this act as are appointed under the act known as the juvenile court law, and entitled "An act to be known as the juvenile court law, and concerning persons under the age of twenty-one years; and in certain cases providing for their care, custody, and maintenance; providing for the probationary treatment of such persons, and for the commitment of such persons to the Whittier State School and the Preston School of Industry, the California School for Girls, and other institutions; establishing probation officers and a probation committee to deal with such persons and fixing the salary thereof; providing for the establishment of detention homes for such persons; fixing the method of procedure and treatment or commitment where crimes have been committed by such persons; providing for the punishment of those guilty of offenses with reference to such persons, and defining such crimes; and repealing the juvenile court law approved March 8, 1909, as amended by an act approved April 5, 1911, and as amended by an act approved June 16, 1913, and all amendments thereof, and all acts or parts of acts inconsistent herewith," approved June 5, 1915, or under any laws amending or superseding the same, except in the case of offenses committed in counties and cities and counties of the second class and counties of the third class; provided, however, that in all cases of offenses defined by section twenty-one of said act known as the juvenile court law and by section two hundred seventy of the Penal Code of California, the same probation officers, assistants and deputies shall serve under this act as are appointed under the said juvenile court law.

(g) **Adult probation board appointed. Term. Vacancy. Removal. Duty of board. No compensation. Adult probation officers. Payment of salaries. Expenses. Nomination of adult probation officers. Additional deputies. Offices.** In counties and cities and counties of the second class, the judges designated for the hearing and disposition of criminal cases and proceedings by a majority vote and in counties of the third class the judge of the department or the judges of the departments, by majority vote, to which criminal actions and proceedings are assigned shall by order entered in the minutes of the court appoint seven citizens of good moral character to be known as the adult probation board and shall fill all vacancies occurring in such board. The clerk of said court shall immediately notify each person appointed on said board and thereupon said person shall appear before a judge of the superior court and qualify by taking an oath, which shall be entered in said court record, to perform faithfully the

duties of such adult probation board. The members of such adult probation board shall hold office for four years and until their successors are appointed and qualify; provided, that of those first appointed one shall hold office for one year, two for two years, two for three years and two for four years, the terms for which the respective members shall hold office to be determined by lot as soon after their appointment as may be. When any vacancy occurs in any probation board by expiration of the term of office of any member thereof, the successor shall be appointed to hold office for the term of four years. When any vacancy occurs for any other reason the appointee shall hold office for the unexpired term of his predecessor. Any member of the probation board may be removed for cause at any time by an affirmative vote of four members of said board at a meeting called for the special purpose of considering the question of said removal and the subsequent written approval of a majority of the judges designated for the hearing and disposition of criminal cases and proceedings in counties and cities and counties of the second class, and the judge of the department or a majority of the judges of the departments to which criminal actions and proceedings are assigned in counties of the third class, said written approval to be filed with the clerk of the court within thirty days after the written report of the said board has been received by said judge. Written notice as to said special meeting shall be served on each of the members of said board at least ten days prior to the date set therefor and shall specify the purpose thereof.

It shall be the duty of such adult probation board to exercise a friendly supervision of probationers when so directed by the court, to furnish the court information and assistance whenever required upon the request of the court and from time to time to advise and recommend to the court any changes or modification of the order made in the case of a probationer as may be for the best interests of such person.

Members of the adult probation board shall serve without compensation.

In counties or cities and counties of the second class there shall be and there are hereby created the offices of one adult probation officer, one assistant adult probation officer and four deputy adult probation officers. The salaries of said officers shall be as follows: Adult probation officer, two hundred twenty-five dollars per month; one assistant adult probation officer, one hundred seventy-five dollars per month; one assistant adult probation officer, one hundred twenty-five dol-

lars per month; three deputy adult probation officers, each, one hundred dollars per month. In counties of the third class there shall be and there are hereby created the offices of one adult probation officer, one assistant adult probation officer and one deputy adult probation officer. The salaries of said officers shall be as follows: Adult probation officer, one hundred seventy-five dollars per month; assistant adult probation officer, one hundred sixty dollars per month; deputy adult probation officer one hundred dollars per month. The deputy adult probation officer in counties of the third class, shall be a woman and shall be a competent stenographer and typist of sufficient ability to perform the clerical and stenographic work of the office in addition to her other duties; provided, however, that in the event an adult probation department is created in counties of the third class, from and after the creation of such department and the appointment of an adult probation officer or any deputy or assistant or like officer who shall relieve the probation officer of the adult probation work, the offices of assistant probation officer at a salary of one hundred seventy-five dollars a month and of assistant probation officer at a salary of one hundred sixty dollars a month shall cease and terminate and be abolished in counties of this class.

The salaries of the adult probation officers, assistant adult probation officers and deputy adult probation officers in counties or cities and counties of the second class and in counties of the third class shall be paid out of the county treasury of the county for which they are appointed respectively in the same manner as the salaries of the other county officers. The adult probation officers, assistant adult probation officers and deputy adult probation officers in said counties or cities and counties of the second class and in counties of the third class shall be allowed such necessary incidental expenses incurred in the performance of their duties as required by any laws of the state of California as may be authorized by a judge designated for the hearing and disposition of criminal cases and proceedings or by the judge of a department to which criminal actions and proceedings are assigned, and the same shall be charged upon the county in which the court appointing them has jurisdiction and said expenses shall be paid out of the county treasury upon a written order of said judge of said county directing the county auditor to draw his warrant upon the county treasurer for the specific amount of such expenses. The adult

probation officer shall keep a list of expenses and file a copy monthly with the county board of supervisors.

In counties or cities and counties of the second class the adult probation officer, and the assistant adult probation officer and deputy adult probation officers hereinbefore provided for shall be nominated by the adult probation board in manner as the judges designated for the hearing and disposition of criminal cases and proceedings shall direct and the appointment of such adult probation officer, assistant adult probation officer and deputy adult probation officers shall be made by a majority vote of said judges. The term of office of the adult probation officer, assistant adult probation officer and deputy adult probation officers shall be two years from the date of their said appointments.

In counties of the third class the adult probation officer, the assistant adult probation officer and the deputy adult probation officer hereinbefore provided for shall be nominated by the adult probation board and in manner as the judge of the department or a majority of the judges of the departments to which criminal actions and proceedings are assigned shall direct and the appointment of such adult probation officer, assistant adult probation officer, deputy adult probation officer shall be made by said judge or a majority of said judges. The term of office of the adult probation officer, the assistant adult probation officer and the deputy probation officer shall be two years from the date of their appointments. The adult probation officer, the assistant adult probation officer and any deputy adult probation officer may at any time be removed in counties or cities and counties of the second class by vote of a majority of the judges designated for the hearing and disposition of criminal cases and proceedings and in counties of the third class by the judge of the department or by a majority of the judges of the departments to which criminal actions and proceedings are assigned for good cause shown and on the filing of written charges by the said judge or judges with the adult probation board. In counties or cities and counties of the second class the judges designated for the hearing and disposition of criminal cases and proceedings, and in counties of the third class the judge of the department or the judges of the departments to which criminal actions and proceedings are assigned shall have authority by an order entered in the minutes of said court to determine and fix the amount of bonds of the adult probation officer of county or city and county and of the assistant adult probation officer of the county or city and

county and of the deputy adult probation officers of the county or city and county. If said bonds or any of them are furnished by any surety company licensed to transact business in the state of California, the premium thereon shall be paid out of the county treasury.

The adult probation officer may appoint as many additional deputies as he may desire; provided, however, that such deputies shall not have authority to act until their appointments shall have been approved by a majority vote of the members of the adult probation board and by a majority vote of the judges designated for the hearing and disposition of criminal cases and proceedings in counties and cities and counties of the second class, and by a majority vote of the members of the adult probation board and by a judge of the department or a majority vote of the judges of the departments to which criminal proceedings are assigned in counties of the third class. The term of office of such deputies shall expire with the term of the adult probation officer making such appointment but the adult probation officer without written approval of the majority of members of the adult probation board may at any time in his discretion, revoke and terminate such appointment. Such deputies except as herein provided shall serve without compensation. It shall be the duty of the legislative body of every county or city and county of the second class and of every county of the third class, immediately upon this act becoming effective, to provide and thereafter maintain, at the expense of such county or city and county, in a location in the vicinity of the jail of such county or city and county, approved by the judges designated for the hearing and disposition of criminal cases and proceedings, in counties or cities and counties of the second class and by the judge of the department or the judges of the departments to which criminal actions and proceedings are assigned in counties of the third class, suitable offices and quarters for the conducting of the business of the adult probation officer, the assistant adult probation officer and the deputy adult probation officers of such county or city and county.

Nothing contained in this subdivision shall apply to the offenses defined by section twenty-one of said juvenile court law and by section two hundred seventy of the Penal Code.

(h) **Transfer of case.** Whenever any person is released upon probation under the provisions of this act, the case may be transferred to any court of the same rank in any other county, or city and county, of this state in which such person

resides, or to which such person may remove, and such court shall thereupon commit such person to the care and custody of the probation officer of the county, or city and county, to which such person has been transferred; such court shall thereafter have entire jurisdiction over such case, with like power to make transfer whenever to such court such transfer may seem proper.

(i) **Report on person's antecedents.** At the time of the plea or verdict of guilty of any crime of any person over eighteen years of age, the probation officer of the county of the jurisdiction of said crime shall, when so directed by the court, inquire into the antecedents, character, history, family environment, and offense of such person, and must report the same to the court, and file his report in writing in the records of said court. His report shall contain his recommendation for or against the release of such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer shall keep a complete and accurate record in suitable books or other form in writing, of the history of the case in court, and of the name of the probation officer, and his acts in connection with said case; also the age, sex, nativity, residence, education, habits of temperance, whether married or single, and the conduct, employment, and occupation, and parents' occupation, and condition of such person so committed to his care during the term of such probation and the result of such probation. Such record of such probation officer shall be and constitute a part of the records of the court, and shall at all times be open to the inspection of the court, or of any person appointed by the court for that purpose, as well as of all magistrates, and the chief of police, or other head of the police, unless otherwise ordered by the court. Said books of record shall be furnished for the use of said probation officer of said county, and shall be paid for out of the county treasury.

(j) **Report.** Every probation officer, within fifteen days after the thirtieth day of June, and within fifteen days after the thirty-first day of December, of each year, shall make in writing and file as a public document with the county clerk a report to the superior court of the county or city and county in which such probation officer is appointed to serve, and shall furnish a copy of such report to each judge in said county or city and county who has released any person on probation who at the time of such report remains on probation; and a further copy to the secretary of the state board of

charities and corrections. Such report shall state, without giving names, the exact number of persons, segregating male and female, and segregating misdemeanors and felonies, who have been released on probation to such probation officer as such number exists, deducting all cases of expiration, discharge, dismissal, and restoration of rights, on said thirtieth day of June and said thirty-first day of December; and such report shall further segregate such person as having been released on probation, as the case may be, in one thousand nine hundred three, one thousand nine hundred four, one thousand nine hundred five and so on, up to and including the calendar year in which such report is made and filed.

(k) **Statement of terms of probation.** The probation officer shall furnish to each person who has been released on probation, and committed to his care a written statement of the terms and conditions of his probation unless such statement has been furnished by the court, and shall report to the court, judge, or justice, releasing such person upon probation, any violation or breach of the terms and conditions imposed by such court on the person placed in his care.

(l) **Powers of probation officer.** Such probation officer shall have, as to the person so committed to the care of said probation officer, the powers of a peace officer. [Amendment approved May 31, 1917; Stats. 1917, p. 1409.]

§ 1239. **Appeals in criminal actions.** An appeal from a judgment may be taken by the defendant by announcing personally or through his attorney in open court at the time the judgment is rendered that he appeals from the same or by filing a written notice of appeal within two days after the rendition of judgment with the clerk of the court wherein judgment was rendered; and from any order made after judgment, by announcing in open court at the time the same is made that he appeals from the same. [Amendment approved April 5, 1917; Stats. 1917, p. 37.]

§ 1324. **Witness not to prosecute on testimony of himself. Person not exempted if testimony is voluntary.** [Repealed May 8, 1917; Stats. 1917, p. 291.]

§ 1616. **Care of female prisoners in county jails.** Whenever any female prisoner or prisoners are confined in any county jail in the state, and no regular jail matron has been appointed, there shall be designated by the sheriff some suitable woman who shall have immediate care of such female

prisoner or prisoners, and who shall be paid out of the general fund of the county upon claims to be presented and allowed by the board of supervisors as other claims against the county. Such female prisoners shall be so kept that they cannot see or be seen by, or converse with, any male prisoners confined in said jail, and it shall be unlawful for any male officer or jailer to search the person of any female prisoner, or to enter into the room or cell occupied by any female prisoner, except in the company of such matron or woman having the care of such female prisoner. [Amendment approved May 5, 1917; Stats. 1917, p. 240.]

THE

POLITICAL CODE

OF THE

STATE OF CALIFORNIA.

AMENDMENTS OF 1917.

§ 10. Holidays. Saturday holiday. Public school holidays. "Admission day." Holidays within the meaning of this code, are every Sunday, the first day of January, twelfth day of February, to be known as Lincoln day, twenty-second day of February, thirtieth day of May, fourth day of July, ninth day of September, first Monday in September, twelfth day of October, to be known as "Columbus day," twenty-fifth day of December, every day on which an election is held throughout the state, and every day appointed by the President of the United States or by the governor of this state for a public fast, thanksgiving or holiday.

If the first day of January, twelfth day of February, twenty-second day of February, the thirtieth day of May, the fourth day of July, the ninth day of September, the twelfth day of October or the twenty-fifth day of December falls upon a Sunday, the Monday following is a holiday.

Every Saturday from twelve o'clock noon until twelve o'clock midnight is a holiday as regards the transaction of business in the public offices of this state, and also in political divisions thereof where laws, ordinances or charters provide that public offices shall be closed on holidays; this shall not be construed to prevent or invalidate the issuance, filing, service, execution or recording of any legal process or written instrument whatever on such Saturday afternoon; and provided, further, that the public schools of this state shall close on Saturday, Sunday, the first day of January, the thirtieth day of May, the fourth day of July, the ninth day of September, the twenty-fifth day of December and on every day appointed by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday. Said public schools shall continue in session on all other legal holidays and shall hold proper exercises commemorating the day. Boards of school trustees and city boards of education shall have power to declare a holiday in the public schools under their jurisdiction when good reason exists therefor.

All public offices of the state and all state institutions, including the state university and all public schools in the state shall be closed on

the ninth day of September of each year, known as "Admission day." [Amendment approved March 20, 1917; Stats. 1917, p. 12.]

§ 410. Distribution of laws, etc., by secretary of state. Decisions of courts. The laws, resolutions and journals of the legislature shall be delivered by the state printer to the secretary of state, who shall immediately distribute them as follows:

1. To the library of congress, three copies.
2. To the state library or other library or department in each state, authorized to receive them, two copies.
3. To the librarians of the University of California and the Leland Stanford Junior University, two copies each.
4. To each United States senator and each member of congress from California, to each of the United States district judges in this state, to each of the judges of the supreme court, the district courts of appeal, and the superior courts of this state, one copy.
5. To the chief of each administrative department of the state government, and to each of his deputies, one copy.
6. To the lieutenant-governor, each member of the legislature, the secretary of the senate and the clerk of the assembly, one copy each.
7. To each public library, and each library connected with an incorporated college or other educational, scientific, literary or art institution in this state, which may apply to be put on the mailing list for all or a portion of the state publications, one copy.
8. To the state library, fifty copies, or so many more as the state librarian may require for exchange purposes.
9. Of the laws alone, to the county clerk of each county, in the cheapest and most expeditious manner, to be by the sheriff distributed under the direction of the clerks, one copy for the board of supervisors, one copy for the registrar of voters, one copy to each county officer and each justice of the peace and police judge; and of the journals, three copies of each house, to each county clerk, for the use of the county.

The secretary of state must also distribute of the bound volumes of the decisions of the supreme court, and of the district courts of appeal, as soon as he receives them:

1. To each state, two copies.
2. To the library of congress, the supreme court library and the district courts of appeal libraries, two copies each.
3. To each department of this state, and to each of the United States district judges of this state, supreme, district courts of appeal and superior judges of this state, one copy.
4. To each district attorney and county clerk, one copy.
5. To the reporter of the decisions, ten copies.
6. To the state library, ten copies. [Amendment approved May 5, 1917; Stats. 1917, p. 278.]

§ 439. Employees of controller. The controller may appoint one deputy controller, one bookkeeper, one expert, one statistician, one warrant registrar, two franchise clerks, and seven clerks, who shall be civil executive officers; and one stenographer-clerk, and one stenographer. [Amendment approved May 31, 1917; Stats. 1917, p. 1390.]

§ 440. **Salaries.** The annual salary of the deputy controller is three thousand dollars; of the bookkeeper, two thousand four hundred dollars; of the expert, two thousand dollars; of the statistician, two thousand four hundred dollars; of the warrant registrar, two thousand four hundred dollars; of two franchise clerks, one thousand eight hundred dollars each; of two clerks, one thousand eight hundred dollars each; of five clerks, one thousand six hundred dollars each; of the stenographer-clerk, one thousand five hundred dollars, and of the stenographer, one thousand two hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of other state officers. [Amendment approved May 31, 1917; Stats. 1917, p. 1390.]

§ 445. **Inheritance tax department established. Inheritance tax attorney and assistants. Duties. Salaries. Salaries, employees of inheritance tax department. Expenses.** The controller shall maintain under his authority and direction a department, to be known as the inheritance tax department, which is hereby established, for the purpose of supervising and assisting in the administration of the inheritance or transfer tax laws of this state. Said department shall gather, record, compile, publish and distribute such information and data as the controller may direct relative to the inheritance or transfer tax laws of this or other states or relative to the administration, enforcement or evasion of such laws. Said department shall co-operate with, advise and assist inheritance tax appraisers, county treasurers, district attorneys and other officers and persons in the administration and enforcement of the inheritance or transfer tax laws of this state, and shall prepare, publish and distribute such blank forms for use of inheritance tax appraisers or other use as the controller may direct. In conection with said inheritance tax department, the controller may appoint, in addition to other employees provided for by statute, an inheritance tax attorney, whose office shall be in the city of Sacramento, five assistant inheritance tax attorneys, two of whom shall have their offices in the city of Los Angeles, two of whom shall have their offices in the city and county of San Francisco, and one of whom shall have his office in the city of Sacramento. Said attorneys shall be civil executive officers and shall be admitted and licensed to practice before the supreme court of this state. The inheritance tax attorney shall, under the authority and direction of the controller, have general supervision of said department. He shall have particular charge of the legal work connected with said department and shall perform such other duties as the controller may direct. Said assistant inheritance tax attorneys shall perform such legal and other services relative to the administration and enforcement of said inheritance or transfer tax laws in the respective counties in which their offices may be situated or in any neighboring county, as the controller may direct. The salary of said inheritance tax attorney shall be three thousand six hundred dollars per annum. The salary of one assistant inheritance tax attorney whose office shall be in the city of Los Angeles shall be three thousand six hundred dollars per annum. The salary of the second assistant inheritance tax attorney whose office shall be in the city of Los Angeles shall be two thousand four hundred dollars per annum. The salary of one assistant inheritance tax attorney whose office

shall be in the city and county of San Francisco shall be three thousand six hundred dollars per annum. The salary of the second assistant inheritance tax attorney, whose office shall be in the city and county of San Francisco shall be two thousand four hundred dollars per annum. The salary of said assistant inheritance tax attorney whose office shall be in the city of Sacramento shall be two thousand seven hundred dollars per annum. The salaries of said inheritance tax attorney and of said assistant inheritance tax attorneys shall be paid at the same times and in the same manner as the salaries of other state officers. Said attorneys shall also receive their necessary traveling and incidental expenses. Said expenses and any other and further and additional expenses for attorneys, clerks, experts, agencies or persons or for any other purpose which said controller may find necessary or proper in the conduct of said inheritance tax department shall be paid out of such moneys as may be appropriated from time to time to the controller for use of said inheritance tax department. [Amendment approved May 31, 1917; Stats. 1917, p. 1389.]

§ 456. **Employees in office of state treasurer.** The state treasurer may appoint one deputy state treasurer, one cashier, one bond officer, one deposit officer, one bookeeper and one secretary-stenographer, all of whom shall be civil executive officers. The annual salary of the deputy state treasurer is three thousand two hundred dollars; of the cashier, two thousand seven hundred dollars; of the bond officer, two thousand five hundred dollars; of the deposit officer, two thousand five hundred dollars; of the bookeeper, two thousand two hundred dollars; and of the secretary-stenographer, one thousand five hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of other state officers. [Amendment approved May 15, 1917; Stats. 1917, p. 540.]

§ 472. **Appointees of attorney general. To have charge of state's legal matters.** The attorney general may appoint one assistant, one chief deputy and seven additional deputies, who shall be civil executive officers. The annual salary of the assistant shall be four thousand dollars; the annual salary of the chief deputy shall be four thousand dollars; the annual salary of two of such additional deputies shall be three thousand three hundred dollars each, and the annual salary of five of such additional deputies shall be three thousand dollars each. Said salaries shall be paid at the time and in the same manner as the salaries of other state officers. The attorney general shall not employ special counsel in any case except those provided in section four hundred seventy-four of the Political Code. The attorney general shall have charge, as attorney, of all legal matters in which the state is in any wise interested, except the business of the regents of the University of California and of the state harbor commissioners, and such other boards or officers as are now by law authorized to employ attorneys, and no board, officer or officers, or employee of the state, except said regents and said harbor commissioners and such other boards and officers as are now by law authorized to employ attorneys, shall employ any attorney other than the attorney general, or one of his assistants or deputies, in any matter

in which the state is interested; nor shall any money be drawn out of the treasury, or out of any moneys appropriated out of the treasury, or out of any special or contingent fund under the control of any board, officer or officers, or employee for the pay of any legal services rendered after the passage of this act, the provisions of any existing statute to the contrary notwithstanding, excepting as above provided; provided, that whenever a district attorney in any county of this state shall, for any reason, become disqualified from conducting any criminal prosecution within such county, the attorney general may employ special counsel to conduct such prosecution, and the attorney's fee in such case shall be a legal charge against the state; provided, further, that nothing herein contained shall be construed to prevent or deny the right of any board, officer, or officers or employee of the state to employ or engage counsel in any matter of the state, after first having obtained the written consent so to do of the attorney general. [Amendment approved May 14, 1917; Stats. 1917, p. 529.]

§ 475. **Clerks, etc., of attorney general.** The attorney general may appoint two clerks, one phonographic reporter, one service agent, and six stenographers for his office. The annual salary of each of said clerks and of the phonographic reporter and of the service agent shall be one thousand eight hundred dollars; the annual salary of five of said stenographers shall be one thousand five hundred dollars; the annual salary of one of said stenographers shall be one thousand two hundred dollars. Said salaries shall be paid at the same time and in the same manner as the salaries of state officers are paid. The clerks, the phonographic reporter, the service agent, and the stenographers shall be civil executive officers. The service agent and two of said stenographers, to be designated by the attorney general, shall be exempted from the provisions of the civil service act and shall hold their positions during the pleasure of the attorney general. [Amendment approved May 14, 1917; Stats. 1917, p. 515.]

§ 589. **Salary of insurance commissioner.** The annual salary of the insurance commissioner is six thousand dollars and the annual salary of the deputy of the insurance commissioner is two thousand seven hundred dollars. [Amendment approved June 1, 1917; Stats. 1917, p. 1667.]

§ 591. **Office of insurance commissioner.** The commissioner may procure suitable offices in the city of San Francisco for conducting the business of the insurance department. The commissioner shall, from time to time, furnish the necessary furniture, stationery, fuel, lights, printing and other conveniences and incur traveling and such other expenses and employ such assistance as may be necessary for the transaction of the business of his office. To defray the expenses of conducting the business of the insurance department there shall be set aside and reserved each and every year out of the funds paid into the state treasury by the insurance commissioner sixty thousand dollars as a special fund to be called the insurance commissioner's special fund. All expenditures authorized in this section must be audited by the board of control or other proper authorities who must allow the same and direct payment thereof to be made and the controller shall draw warrants therefor on

the state treasury for the payment of the same to the insurance commissioner out of the said insurance commissioner's special fund; except that there shall be a revolving fund, or petty cash fund, of five hundred dollars which may be used by the commissioner without first obtaining the approval of any other department or official; provided, however, that such expenditures must ultimately be audited by the board of control and paid for as prescribed by law. [Amendment approved June 1, 1917; Stats. 1917, p. 1667.]

§ 596. **Transaction of insurance business in state. Certificate not to be renewed if company is in arrears for taxes. Surplus line broker.** No company shall transact any insurance business in this state without first complying with all the provisions of the laws of this state and thereafter procuring from the insurance commissioner a certificate of authority and continuing to comply with the laws of this state. Every such certificate of authority shall expire on the first day of July after its issuance unless sooner revoked. No certificate of authority shall be granted or renewed to any company in arrears to the state, or to any county, city and county, city or town in the state, for fees, licenses, taxes, assessments, fines, or penalties, accrued on business previously transacted in the state, nor while said company is otherwise in default for failure to comply with any of the laws of this state regarding the governmental control of such company by the state.

No person, firm or corporation shall in this state act as agent, in any transaction of insurance on property located in this state, for any insurance company not authorized to transact such insurance in this state.

No person, firm or corporation within this state shall solicit, negotiate or effect any insurance of the kinds described in section five hundred ninety-four, marine insurance and insurance on the property of steam railroads or of other common carriers engaged in interstate trade excepted, on any property located in this state with companies not authorized to transact such business in this state, except by and through a surplus line broker upon the terms and conditions hereinafter stated.

When and only when the total amount of insurance, of kinds hereinbefore prohibited from being placed with unauthorized companies, desired on any property located within the state can not be procured from a majority of companies authorized to transact such kinds of insurance within the state, such remaining part of the insurance as can not be procured from a majority of such authorized companies may be procured from unauthorized companies by a surplus line broker, and by no other person.

License for surplus line broker. The insurance commissioner may issue a license authorizing any person, firm or corporation applying therefor, who is trustworthy and is competent to transact an insurance brokerage business in such manner as to safeguard the interest of the assured, to act as a surplus line broker from the date of such license until the first day of July succeeding, on the following conditions:

(a) Payment in advance to the insurance commissioner of a fee of twenty-five dollars.

(b) Delivery to the insurance commissioner of a bond to the state of California in the sum of five thousand dollars with sureties having

the qualifications mentioned in section one thousand fifty-six and one thousand fifty-seven of the Code of Civil Procedure, conditioned that said licensee will fully and faithfully comply with the requirements of section five hundred ninety-six of the Political Code.

Duties of surplus line broker. The following are the duties of a surplus line broker with which he is required to comply:

1. To maintain in good faith an office in this state.

2. To keep in said office a complete book of record of the business transacted by him, under his license as a surplus line broker, with unauthorized companies showing: The dates of such insurance going into effect; the names of the insurers and of the insured; the gross premium payable therefor; the terms and character of insurance and location of the insured property. Such book of record shall also contain statements in the same detail of all such insurance canceled, or on which premiums have been increased or reduced and the amounts of additional or of return premiums thereon. Such books are to be open at all times for the inspection of, and examination by, the insurance commissioner or any one appointed by him for said purpose.

Before any insurance as hereinbefore provided may be so procured or placed by a surplus line broker under authority of his license with unauthorized companies, such broker shall satisfy himself that the insurance to be placed by him with unauthorized companies is only such part of the insurance required as cannot be procured from a majority of such authorized companies.

Whenever required so to do by the insurance commissioner, such surplus line broker shall furnish to said commissioner a list comprising a majority of the authorized companies from which the entire amount of insurance desired was not obtainable.

The surplus line broker shall within one week or as soon thereafter as practicable, after receipt by him of the complete information as to with what companies or other insurers and at what rate the insurance has been placed, file with the insurance commissioner a true report showing the names of the insured and of the insurers, the character of the insurance, location of the property, gross premium payable therefor and the date such insurance takes effect and the terms thereof. As soon as practicable after any such insurance has been canceled, or any premium thereon has been increased or reduced, such surplus line broker shall file with the insurance commissioner a report thereof in the same detail as required in the case of the report above referred to.

On or before the first day of March of each year the surplus line broker shall file with the insurance commissioner a sworn statement of all business transacted under his license during the last preceding calendar year ending December thirty-first. Such statement shall contain true accounts of the gross amount of insurance procured from and placed with unauthorized companies during the calendar year, the gross premium charged therefor, including additional insurance premiums, the gross amount of all insurance canceled during said year, and the gross return premiums thereon. Such statement shall also include any additional premiums charged, and the gross premium returned during said calendar year on insurance previously effected. All such reports and statements

shall be made on blanks to be furnished to the surplus line broker by the insurance commissioner on application therefor.

Every surplus line broker shall on or before the first day of April of each year pay to the insurance commissioner for the use of the state of California a tax of three per cent upon the amount of gross premiums upon all insurance placed under authority of such license, less three per cent of all return premiums on policies canceled, or upon which premiums have been reduced during the year ending December thirty-first last preceding.

Any surplus line broker who willfully fails or refuses to report to the insurance commissioner any insurance on property located within this state placed under his name with unauthorized companies, or who shall by willful omission from the records required to be maintained by him for such purpose, attempt to evade the payment of taxes on any such insurance, shall upon conviction thereof in addition to being required to pay the tax thereon, be further penalized by a fine of not exceeding one hundred dollars for each offense and the insurance commissioner shall further forthwith revoke the license of any such surplus line broker.

The insurance commissioner shall also revoke the license of any surplus line broker who willfully fails or refuses to perform any of the other duties hereinbefore specified as required of said broker.

Revoking license. Examination of policies, etc., by insurance commissioner. If in the opinion of the insurance commissioner the solvency of any surety on a bond hereby required has become impaired or doubtful, he shall notify the surplus line broker in writing, and unless within ten days after receipt of such notice the solvency of such surety is proved to the satisfaction of the insurance commissioner, or a new bond is substituted therefor, said insurance commissioner shall revoke the license of the surplus line broker. The removal of the office of the surplus line broker from this state, or the removal therefrom of his accounts of his business as such, or the closing of his said office for a period of more than twenty consecutive days, shall constitute a termination of the authority of said surplus line broker, and shall be tantamount to an express revocation of his license, whether or not the insurance commissioner thereafter revokes the same. No new license shall be issued to any surplus line broker whose license has been revoked for any reason other than the insufficiency of his sureties, within the period of one year after such revocation, and until all indebtedness of said surplus line broker on former business has been paid to said insurance commissioner. Every insured for whom insurance has been effected with unauthorized companies shall produce for examination by the insurance commissioner, whenever requested by him, in writing so to do, all policies, contracts, and other documents evidencing such insurance and disclose to him the true amount of the gross premiums paid or agreed to be paid therefor, or upon refusal so to do, he shall forfeit to the state of California the sum of two hundred dollars for each refusal. Nothing in this section shall be construed to deprive any citizen of this state of the right to negotiate and effect insurance on his own property with any unauthorized company. Nothing in this section shall be construed to permit any broker to solicit or place marine insurance or insurance on property of railroads or other common carriers engaged in interstate

trade with nonadmitted insurers until three-quarters of the companies duly authorized to transact such class of insurance in this state shall have first been given a refusal of such insurance at equal rates and same conditions as may be bona fide obtainable from insurance companies admitted to do the same character of insurance under the laws of the state of New York. [Amendment approved April 20, 1917; Stats. 1917, p. 147.]

Repealed. Section four hundred thirty-nine of the Penal Code, in so far as it is inconsistent with the provisions hereof, is hereby repealed. [Repealed by act approved April 20, 1917; Stats. 1917, p. 147.]

§ 597. **Examination of insurance companies. Company organized in other state. Access to books. Inspection of books. State compensation insurance fund.** The commissioner, whenever he deems necessary, or whenever he is requested by verified petition, signed by twenty-five persons interested, either as stockholders, policy-holders, or creditors of any company engaged in insurance business in this state, showing that such company is insolvent under the laws of this state, must make an examination of the business and affairs relating to the insurance business of such company, and must make such an examination whenever any company is organized to do insurance business in this state, and before issuing a certificate of authority other than renewals to such company; provided, the insurance commissioner shall have no authority to issue, and no certificate of authority shall be issued, to any insurance company or corporation hereafter organized or incorporated in this state, whether the same be organized and promoted directly or by means of a holding company or corporation, one of the purposes of which is the organization and promotion of such insurance company or corporation, where such examination shows the expense of organization and promotion to be in excess of fifteen per cent of the total amount actually paid on its capital stock exclusive of surplus.

Whenever any company, not organized under the laws of this state, applies for a certificate of authority to do business in this state, the insurance commissioner may make, or cause to be made, by the insurance department of the state where such company is organized, an examination of the business and affairs relating to the insurance business of such company. The company organized or existing under the laws of any country outside of the United States, shall be deemed to be organized within the meaning of this act in any state wherein such company maintains the deposits required by the laws of this state.

For the purpose of making such examination the insurance commissioner shall have free access to all the books and papers of such company, and must thoroughly inspect and examine all its affairs, and ascertain its condition and ability to fulfill its engagements, and that it has complied with all the provisions of law applicable to its insurance transactions.

Every company examined under the provisions of this section must open its books and papers for the inspection of the commissioner, and otherwise facilitate such examination; and the commissioner may administer oaths and examine under oath any person relative to the business of such company; and if he finds the books to be carelessly or

improperly kept or posted, he must employ sworn experts to rewrite, post, and balance the same at the expense of such company. Such examination must be conducted in the county where such company has its principal office, and must be private, unless the commissioner deems it necessary to publish the result of such investigation, in which case he may publish the same in two of the public newspapers of this state, one of which must be published in the city of San Francisco and the other in the city of Los Angeles. All examinations must be at the expense of the company, such expense to be paid in advance, and, if any such company refuses to pay such expenses in advance, the insurance commissioner may refuse to issue any such certificate of authority and must revoke any existing certificate of authority authorizing such company to do business.

The insurance commissioner shall have the same powers and authority to make examination of the state compensation insurance fund as are conferred upon him by law relative to the examination of other insurance carriers. [Amendment approved May 29, 1917; Stats. 1917, p. 1320.]

§ 602a. Liabilities of insurance companies. Computation of reserve. In estimating the condition of any insurance corporation, mutual company, association, the state compensation insurance fund, interinsurance exchange or other insurance carriers engaged in the business of liability insurance and licensed to transact business in this state, the insurance commissioner shall charge as liabilities, all outstanding indebtedness of such carrier, and the premium reserve on policies in force, equal to the unearned portions of the gross premiums charged for covering the risks, computed on each respective risk from the date of the issuance of the policy.

The reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable shall be computed as follows:

(1) **Liability suits.** For all liability suits being defended under policies written more than—

(a) Ten years prior to the date as of which the statement is made, one thousand five hundred dollars for each suit.

(b) Five and less than ten years prior to the date as of which the statement is made, one thousand dollars for each suit.

(c) Three and less than five years prior to the date as of which the statement is made, eight hundred fifty dollars for each suit.

(2) **Liability policies.** For all liability policies written during the three years immediately preceding the date as of which the statement is made, such reserve shall be sixty per centum of the earned liability premiums of each of such three years less all loss and loss expense payments made under the liability policies written in the corresponding years; but in any event, such reserve shall, for the first of such three years, be not less than seven hundred fifty dollars for each outstanding liability suit on said year's policies.

(3) **Claims under policies written three years prior.** For all compensation claims under policies written more than three years prior to the date as of which the statement is made, the present values at four per centum interest of the determined and the estimated future payments.

(4) **Claims under policies written three years preceding.** For all compensation claims under policies written in the three years immediately preceding the date as of which the statement is made, such reserve shall be seventy per centum of the earned compensation premiums of each of such three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years; but in any event in the case of the first year of any such three-year period such reserve shall be not less than the present value at four per centum interest of the determined and the estimated unpaid compensation claims under policies written during such year.

"Earned premiums." The term "earned premiums," as used herein, shall include gross premiums charged on all policies written, including all determined excess and additional premiums, less return premiums, other than premiums returned to policy-holders as dividends, and less reinsurance premiums and premiums on policies canceled, and less unearned premiums on policies in force.

"Compensation." The term "compensation" as used in this act, shall relate to all insurance effected by virtue of statutes providing compensation to employees for personal injuries irrespective of fault of the employer. The term "liability" shall relate to all insurance except compensation insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable.

"Loss payments." The terms "loss payments," and "loss expense payments," as used herein, shall include all payments to claimants, including payments for medical and surgical attendance, legal expenses, salaries and expenses of investigators, adjusters and field men, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home office expenses, and all other payments made on account of claims, whether such payments shall be allocated to specific claims or unallocated.

Distribution of unallocated liability loss expense payments. All unallocated liability loss expense payments made in a given calendar year subsequent to the first four years in which an insurer has been issuing liability policies, shall be distributed as follows: Thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, ten per centum to the policies written in the second year preceding. ten per centum to the policies written in the third year preceding, and five per centum to the policies written in the fourth year preceding, and such payments made in each of the first four calendar years in which an insurer issues liability policies shall be distributed as follows: In the first calendar year one hundred per centum shall be charged to the policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year and fifty per centum to the policies written in the preceding year; in the third calendar year forty per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, and twenty per centum to the policies written in the second year preceding, and in the fourth calendar year thirty-five per

centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, fifteen per centum to the policies written in the second year preceding, and ten per centum to the policies written in the third year preceding, and a schedule showing such distribution shall be included in the annual statement.

Distribution of unallocated compensation loss expense payments. All unallocated compensation loss expense payments made in a given calendar year subsequent to the first three years in which an insurer has been issuing compensation policies shall be distributed as follows: Forty per centum shall be charged to the policies written in that year, forty-five per centum to the policies written in the preceding year, ten per centum to the policies written in the second year preceding and five per centum to the policies written in the third year preceding, and such payments made in each of the first three calendar years in which an insurer issues compensation policies shall be distributed as follows: In the first calendar year one hundred per centum shall be charged to the policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year and fifty per centum to the policies written in the preceding year, in the third calendar year forty-five per centum shall be charged to the policies written in that year, forty-five per centum to the policies written in the preceding year and ten per centum to the policies written in the second year preceding, and a schedule showing such distribution shall be included in the annual statement.

Additional reserves. Whenever, in the judgment of the insurance commissioner, the liability or compensation loss reserves of any insurer under his supervision, calculated in accordance with the foregoing provisions, are inadequate, he may, in his discretion, require such insurer to maintain additional reserves based upon estimated individual claims or otherwise.

Schedule of experience. Each insurer that writes liability or compensation policies shall include in the annual statement required by law a schedule of its experience thereunder in such form as the insurance commissioner may prescribe. [Amendment approved May 26, 1917; Stats. 1917, p. 1178.]

§ 633. **License to act as insurance agent.** No person, shall within this state act as the agent of any insurance or surety company or society until such person shall have first obtained a license from the insurance commissioner authorizing him or it so to act.

Any person duly appointed and authorized by an insurance or surety company or society to solicit applications for insurance or surety bonds, or effect insurance or surety bonds in the name of such company, shall be an agent within the meaning of this section. The insurance commissioner shall upon written notice from any insurance or surety company or society, authorized to transact business in this state, of its appointment of any person to act as its agent and upon payment of the fee provided for in section six hundred five of the Political Code, issue to such person a license in such form as may be prescribed by the insurance department; provided, however, that such proposed licensee

shall first file with the insurance commissioner of the state of California upon a form to be prescribed and furnished by said insurance commissioner, an application in writing, duly verified under oath, reciting:

Application. First—The applicant's full name and address;

Second—The name of the company for which the applicant is to act as agent;

Third—The applicant's experience in the insurance or surety business;

Fourth—If the applicant is engaged in any business other than insurance or surety, the nature of such business and the name under which such business is conducted;

Fifth—That the applicant intends to carry on in good faith the occupation of an insurance or surety agent, and that said applicant does not seek such appointment for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state.

Revocation or suspension of license. If it shall be brought to the attention of the insurance commissioner that any agent licensed hereunder has willfully misstated any material fact in his application, or that the purpose or principal use of such license as an insurance or surety agent is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, then the insurance commissioner shall give notice to such agent and cite him to appear before such insurance commissioner and show cause why his license as an insurance or surety agent should not be suspended or revoked. If at the hearing of said order to show cause it shall appear that said agent has willfully misstated any material fact in his application to the insurance commissioner, or that the purpose or principal use of such license is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, then the insurance commissioner shall either revoke or suspend the license of such agent, and shall notify both the agent and the company of such revocation or suspension.

Action to review facts. If at any time the insurance commissioner revokes or suspends the license theretofore granted to any agent, such applicant or agent may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy, and for the purpose of obtaining relief, or canceling the act of the insurance commissioner. In any such action the court shall have full power to investigate all the facts de novo without regard to the determinations previously made by the insurance commissioner. All of the provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals shall be applicable to such actions.

Such action shall be commenced and tried in the superior court of the county in which such agent resides, unless the parties thereto stipulate otherwise.

Time in force. Unless revoked by the commissioner, or unless the company by written notice to the commissioner cancels the agent's authority to act for it, such license, or any renewal thereof, shall expire on the first day of July next after its issue or renewal. Any license issued after this section takes effect may in the discretion of

the insurance commissioner be renewed for a succeeding year by a renewal certificate without the commissioner requiring the detailed information required by this section.

Penalty. Any person who shall act or offer to act or assume to act as an insurance or surety agent unless licensed by the insurance commissioner as provided in this section, or after such license granted to him or it has been suspended or revoked, shall be guilty of a misdemeanor, but any policy issued on an application, thus procured, shall bind the insurance company if otherwise valid.

Title insurance, etc., not affected. Nothing in this section shall be construed to apply to, refer to, or affect county mutual fire insurance companies, or their agents, or title insurance business, or fraternal benefit societies, or agents or employees of reciprocal or interinsurance exchanges.

Fees. Nothing herein contained shall in any manner limit the fees provided for in section six hundred five of the Political Code. [Amendment approved June 1, 1917; Stats. 1917, p. 1617.]

§ 633a. License to act as insurance broker. No person, firm or corporation shall within this state act as an insurance broker until such person, firm or corporation shall have first obtained a license from the insurance commissioner authorizing him or it so to act.

Who are insurance brokers. Any person, firm or corporation, other than an insurance or surety company, or society, or agent of such company or society, or employee compensated by salary only and acting on behalf of such company or society or agent, or a medical examiner for a life insurance company or society, who, for compensation acts or aids in any manner in negotiating contracts of insurance or surety bonds or reinsurance or placing risks, or effecting insurance or reinsurance for a party other than himself or itself, shall be an insurance broker within the meaning of this section.

License issued. The insurance commissioner shall upon the payment of a fee provided for in section six hundred five of the Political Code, issue to a person, firm or corporation a license to act as an insurance broker to negotiate contracts of insurance or surety bonds, or reinsurance, or place risks, or effect insurance or surety bonds or reinsurance, with any insurance or surety company or society authorized to transact such business within this state, or with its agent, or with another broker; provided, however, that such proposed licensee shall first file with the insurance commissioner of the state of California, upon a form to be prescribed and furnished by said insurance commissioner, an application in writing, duly verified under oath, reciting:

Application. First—The applicant's full name and address;

Second—The applicant's experience in the insurance business;

Third—If the applicant is engaged in any other business than insurance, the nature of such business and the name under which such business is conducted;

Fourth—If the applicant be a copartnership, the names of the partners comprising such copartnership, or if the applicant be a corporation, the names of the officers thereof;

Fifth—That the applicant intends to carry on in good faith the occupation of an insurance broker, and that said applicant does not seek a license as an insurance broker for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state.

Time in force. An insurance broker's license so issued shall remain in force until July first of any year after the date of the issuance thereof, unless sooner revoked by the insurance commissioner. Such broker's license issued on an application as hereinbefore provided may in the discretion of the insurance commissioner be renewed upon expiration for a succeeding year upon the payment of a fee, provided for in section six hundred five of the Political Code, without requiring anew the details required in the original application.

Revocation or suspension of license. If it shall be brought to the attention of the insurance commissioner that any insurance broker licensed hereunder has willfully misstated any material fact in his application, or that the purpose or principal use of such license as an insurance broker is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, then the insurance commissioner shall give notice to such insurance broker and cite him to appear before such insurance commissioner and show cause why his license as an insurance broker should not be suspended or revoked. If at the hearing of said order to show cause it shall appear that said insurance broker has willfully misstated any material fact in his application to the insurance commissioner, or that the purpose or principal use of such license is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, then the insurance commissioner shall either revoke or suspend the license of such insurance broker and shall notify such broker of such revocation or suspension, and shall publish a notice of the revocation or suspension of said insurance broker's license in such a manner as he deems proper for the protection of the public.

Action to review facts. If at any time the insurance commissioner revokes or suspends the license theretofore granted to a broker, such broker may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy, and for the purpose of obtaining relief, or canceling the act of the insurance commissioner. In any such action the court shall have full power to investigate all the facts de novo without regard to the determination previously made by the insurance commissioner. All of the provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals shall be applicable to such action.

Such action shall be commenced and tried in the superior court of the county in which such broker resides, unless the parties thereto stipulate otherwise.

Nonresident brokers. The insurance commissioner may upon application issue to nonresident insurance brokers a license to transact insurance in this state subject to the same qualifications, requirements, restrictions and fees as provided for resident brokers.

Penalty. Any person, firm or corporation, who shall act or offer to act or assume to act as an insurance broker, unless licensed by the

insurance commissioner as provided in this section, or after such license granted to him or it has been revoked, shall be guilty of a misdemeanor, but the policy issued on an application thus procured, shall bind the insurance company, if otherwise valid.

Title insurance, etc., not affected. Nothing in this section shall apply to or in any way affect title insurance business, fraternal benefit societies or county mutual fire insurance companies.

Fees. Nothing herein contained shall in any manner limit the fees provided for in section six hundred five of the Political Code. [New section added June 1, 1917; Stats. 1917, p. 1615.]

§ 633b. Policy must contain true statement of premium and risk. No insurance or surety company or society, nor any agent, shall insure any risk in this state, nor shall any agent or broker assist in arranging any such insurance, the policy or contract for which does not contain a true and correct statement of the premium consideration paid or to be paid therefor, and of the risk covered for such premium consideration; provided, however, that if the insurance be of a character where the exact premium is only determinable upon the expiration of the policy or contract, such policy or contract must contain a true and correct statement of the basis and rates upon which the said final premium or consideration is to be determined and paid, and of the risk covered for such premium consideration.

Covering notes. This section shall not be construed to prohibit the use of covering notes to temporarily bind insurance or surety bonds pending the issuance of the policy or contract; provided, that for every such covering note so used, within ninety days thereafter a policy or contract shall be issued in lieu thereof, including within its terms the identical insurance protected under said covering note and the premium consideration paid or to be paid therefor.

Rebates prohibited. No insurance or surety company or society, by itself or by any other party, and no agent, or insurance broker, personally or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, as an inducement to insurance on any risk in this state, now or hereafter to be written, any rebate of or part of the premium payable on the policy or contract of insurance or surety bond, or of the agent's or broker's commission thereon; nor shall any such company, or society, agent, or broker, personally or otherwise, offer, promise, allow, give, set off, or pay, directly or indirectly as an inducement to such insurance any earnings, profits, dividends, or other benefit, founded, arising, accruing, or to accrue on such insurance or surety bond, or therefrom, or any other valuable consideration which is not clearly specified, promised or provided for in the policy or contract of insurance, or in the application for such surety bond; provided, however, that nothing in this section shall be construed to prevent a mutual fire insurance company from returning any portion of the premium as a dividend, at the expiration of the term covered by such premium.

Commission. Discount on marine insurance. Nothing in this section shall be construed to prohibit any insurance or surety company or

society, or agent for such company or society, or broker, from paying commission to another company, society, agent, or insurance broker, nor shall this section be construed to prohibit any marine insurance company, agent, or broker from allowing any insured, such usual discount as is sanctioned by custom amongst marine insurers as being additional to the agent's or broker's commission, but this exemption shall in no wise operate to relieve marine insurance in any other respect from the full operation of this section.

Agent's commission on own insurance. This section, except as hereinbefore specifically provided, shall not be construed to prevent any insurance or surety company from paying to another insurance or surety company, or to an agent or broker, or to prevent any insurance or surety company or such an agent or broker from receiving a commission in respect to any policy under which it, itself, or he, himself, is insured.

Bonuses. Nothing in this section shall be so construed as to prohibit any company issuing nonparticipating life insurance from paying bonuses to policy-holders or otherwise abating their premiums, in whole or in part out of surplus accumulated from nonparticipating insurance; nor to prohibit any company transacting industrial insurance on the weekly payment plan from returning to policy-holders who have made premium payment for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the weekly collection of such premiums. This section shall not be construed to prevent any life insurance company paying, or contract holders receiving special compensations, or allowing and receiving credits already agreed upon in contracts now in force.

Producing books, etc. No person shall be excused from testifying or from producing any books, papers, contracts, agreements or documents at the trial or hearing of any person or company, association or society charged with violating any provisions of this section, on the ground that such testimony or evidence may tend to incriminate himself, but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Responsibility of company. Every insurance company or society shall be charged with full responsibility to exercise reasonable diligence for the observance of this section by its agents and it shall be unlawful for any insurance or surety company to appoint as its agent any person, firm or corporation, or the employee or nominee of said person, firm or corporation, for the purpose of enabling such person, firm or corporation to obtain a policy or contract of insurance at a cost less than that specified in any policy or contract of insurance issued to such person, firm or corporation, or at a cost less than that specified in any application for any surety bond issued in behalf of such person, firm or corporation.

Penalty. Certificate of authority suspended. An officer or employee of any insurance or surety company or society, or any agent or broker, or any officer or employee of such agent or broker who violates any of

the provisions of this section shall be guilty of a misdemeanor. Upon it being proven to the insurance commissioner after a hearing upon reasonable notice to the accused of the time and place of such hearing that any insurance or surety company or society shall knowingly have violated any of the provisions of this act, or shall knowingly have permitted any officer, managerial agent, or managerial employee, to violate any of the provisions of this act, he shall have authority to suspend the certificate of authority of such insurance or surety company or society to do the kind of business in which the violation of the provisions of this act occurred.

Agent's license revoked. And the insurance commissioner shall have authority to suspend or revoke the license issued to any agent or broker on its being proven to him, after hearing, that such agent or broker has knowingly and willfully violated any of the provisions of this act.

Action to review facts. If at any time the insurance commissioner suspends the certificate of authority theretofore granted to any insurance or surety company, or revokes or suspends the license theretofore granted to any broker or agent, or refuses to grant a certificate of authority to any insurance or surety company, or license to any broker or agent, any interested person or company may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy and for the purpose of obtaining the relief refused or for canceling the action of the commissioner. In any such action the court shall have full power to investigate all of the facts de novo, without regard to the determinations previously made by the commissioner. In the trial of such actions all of the provisions of the Code of Civil Procedure, shall be applicable. Such action shall be commenced and tried in the superior court of the county in which such insurance or surety company or society has its principal place of business in this state, or in which such broker or agent resides, unless the parties thereto stipulate otherwise.

Title insurance, etc., not affected. Nothing in this act shall apply to, or in any way affect reciprocal or interinsurance contracts, title insurance business, fraternal benefit societies, or county mutual fire insurance companies. [New section added June 1, 1917; Stats. 1917, p. 1612.]

§ 678. **Notice to state board of control and treasurer of bond sale.** Whenever, under the provisions of law, the board of supervisors, trustees, common council or other governing boards or bodies of any city or county, city or town or school district of this state shall advertise the sale of bonds voted for any purpose, the clerk of such board of supervisors, trustees, common council or other governing board or body shall forthwith by mail, postage prepaid, notify the state board of control and state treasurer at the capitol of such issuance and sale of bonds and shall specify the purposes for which such bonds were voted, the amount of the total issue for each purpose, the denomination of each bond showing date of issuance and date of maturity, the rate of interest showing when and where payable, the assessed value of the property upon which such bonds are a lien, the total amount of other bonded indebtedness which is a lien upon said property, and shall upon request of the state

board of control furnish a full description of the proceedings leading up to such issue; provided, that no certified check, bond or other assurance in law shall be required from the state upon its bid to purchase bonds. [Amendment approved May 14, 1917; Stats. 1917, p. 466.]

§ 686. **Department of public accounting. Superintendent. Bond. Additional accountants.** Department of public accounting. Superintendent, etc. There is hereby established in connection with and under the supervision of the state board of control a department of public accounting. The board shall appoint a superintendent of accounts at an annual salary of three thousand six hundred dollars, and two assistants at an annual salary of two thousand seven hundred dollars each. Such appointees shall be skillful accountants and well versed in public accounting. They shall (each) execute a bond to the state in the sum of ten thousand dollars. They shall be civil executive officers and their salaries shall be paid in the same manner and at the same time as the salaries of state officers are paid. The board may also appoint such additional accountants as may be necessary to carry on the work of the department at salaries not to exceed for any one of such appointees the sum of two thousand four hundred dollars per annum. Such salaries, upon authority of the board, shall be paid out of money appropriated for the use of the department at the same time and in the same manner as the salaries of state officers are paid. Such accountants shall be chosen from persons who have successfully taken an open competitive examination given along practical lines showing their fitness for the work required. They shall each execute to the state a bond in the sum of five thousand dollars. All of the appointees in this section are empowered to administer oaths in the furtherance of their official duties. [Amendment approved May 14, 1917; Stats. 1917, p. 467.]

§ 718. **Employees of superintendent of capitol building and grounds.** The superintendent of capitol building and grounds may appoint one head gardener at an annual salary of two thousand one hundred dollars, and one assistant head gardener at an annual salary of one thousand three hundred twenty dollars. He may appoint seven special policemen for the building and grounds at annual salaries of one thousand three hundred twenty dollars each, who shall have the power of peace officers, and the same power of arrest as is herein given to the superintendent. None of said policemen shall be required to work more than six days in any one week. He may appoint one clerk for his office at an annual salary of one thousand eight hundred dollars, who shall be a civil executive officer; one head porter for the building at an annual salary of one thousand two hundred sixty dollars; one typewriter expert at an annual salary of one thousand three hundred twenty dollars. He may appoint one engineer at an annual salary of one thousand eight hundred dollars; one fireman at an annual salary of one thousand two hundred sixty dollars; one electrician at an annual salary of one thousand eight hundred dollars; provided, however, that the superintendent is hereby empowered to employ an additional electrician for emergency purposes. The superintendent may also appoint two elevator attendants at an annual salary of one thousand one hundred forty dollars each; three telephone ex-

change operators at an annual salary of nine hundred dollars each. He may appoint to serve from January first until May first in each legislative year one engineer at a monthly salary of one hundred fifty dollars; one fireman at a monthly salary of one hundred five dollars; one electrician at a monthly salary of one hundred fifty dollars; two elevator attendants at a monthly salary of ninety-five dollars each; one telephone exchange operator at a monthly salary of seventy-five dollars; ten porters at a monthly salary of ninety dollars each. He may also appoint one telephone exchange operator at a monthly salary of seventy-five dollars, to serve six weeks each year while the legislature is not in session. The salaries of all such appointees shall be paid at the same time and in the same manner as other state officers. [Amendment approved May 24, 1917; Stats. 1917, p. 925.]

§ 759. **Phonographic reporters in district courts of appeal.** Each of the three district courts of appeal may employ and appoint a phonographic reporter, who shall be competent to write in shorthand at the rate of at least one hundred and fifty words per minute and to transcribe the same correctly. His duties shall be to take down in shorthand the proceedings of the court, and to act as secretary to the judges in the discharge of their official duties. His compensation shall be at the rate of three thousand dollars per annum. [Amendment approved May 21, 1917; Stats. 1917, p. 784.]

§ 791. **Notaries public in counties of second class.** The governor may appoint and commission such number of notaries public for the several counties, and cities and counties of this state, as he shall deem necessary for the public conveniences, except that in counties of the second class the number shall not exceed one hundred thirty. [Amendment approved April 11, 1917; Stats. 1917, p. 92.]

§ 995. **Resignations of officers.** Resignations must be in writing, and made as follows:

1. By the governor and lieutenant-governor to the legislature, if it is in session; and if not, then to the secretary of state;

2. By all officers commissioned by the governor, to the governor;

3. By senators and members of the assembly, to the presiding officers of their respective houses, who must immediately transmit the same to the governor;

4. By all county and township officers not commissioned by the governor, to the clerk of the board of supervisors of their respective counties;

5. By all other appointed officers, to the body or officer that appointed them;

6. By members of the board of trustees, and other officers of a municipal corporation, to the clerk of the board of trustees of their respective corporation.

7. In all cases not otherwise provided for, by filing the resignation in the office of the secretary of state. [Amendment approved April 5, 1917; Stats. 1917, p. 38.]

§ 1094. Registration every two years. Transfers. Elections held between January 1 and April 1 of even-numbered years. Affidavits of registration deemed canceled. Registration outside of main office. List of lodgers. Challenge of voters not on certified list of lodgers. There shall be, commencing January 1, 1918, and every two years thereafter, except as hereinafter provided, in each county and city and county of the state, a new and complete registration of the voters of such county or city and county, who are entitled thereto. Such registration shall be in progress at all times except during the thirty days immediately preceding any election, when it shall cease for such election as to electors residing in the territory within which such election is to be held; and transfers of registration for such election may be made from one precinct to another precinct in the same county or city and county at any time when such registration shall be in progress in the precinct to which the elector seeks to transfer; provided, that where any general or special municipal election, or any other special election, including any primary election and all special elections to vote for officers, or upon or for or against any proposition or question authorized to be submitted to a vote, is held on or after the first day of January and before the first day of April of any even-numbered year, the original affidavits of registration and indexes used in the last general state election in any county or city and county in this state, together with the original affidavits of registration since the last election, and supplemental indexes, showing all additional registrations, changes and corrections made since the registration for the last general election, completed to and including the thirty-first day prior to said election then being held, may be used at such election to determine the persons entitled to vote thereat. All affidavits of registration made prior to the first day of January of any even-numbered year shall be deemed canceled upon said day except for the sole purpose of being used as hereinbefore stated at elections held thereafter and before the first day of April of that year, and shall on said last-mentioned day be deemed canceled for all purposes. The board having charge and control of elections in each county or city and county, may provide by resolution, for the registration of voters in their respective precincts, by the officer charged with the registration of voters, and may also provide by resolution for the registration of voters at specified times and places, other than the office of the county clerk or registrar of voters, deemed most convenient to large numbers of voters, without reference to respective or particular precincts, in such a manner that the affidavits of registration as provided by law may be taken at such time and place, of any voter within the county who is entitled to register therein; provided, however, that in any city and county no registration outside of the main office of the officer charged with the registration of voters shall be had except that which is without reference to particular precincts as last specified herein; and provided, also, that any registration which may be made at the main office for registration in any such city and county may be made and taken in any place in said city and county in such manner as may be provided by rules and regulations made by the board having control of registration in any such city and county. Upon the written request of the officer charged with the registration of

voters, which request said officer shall make upon petition from any ten electors of the county, such petition to specify the premises from which lists are desired, every landlord or keeper of premises where lodgers abide, shall furnish said officer a list of all lodgers occupying rooms, or sleeping apartments, or beds in the premises under his or her or its control. Such lists shall be furnished upon blanks provided by said officer. Any landlord or keeper of premises where lodgers abide, who neglects or refuses to comply promptly with the provisions of this section or who furnishes a false list of such lodgers, shall be guilty of a misdemeanor. All lists so returned shall be kept on file in the office of the officer receiving same, open to public inspection. It shall be the duty of said officer to compile a list of such persons, if there are any, who are registered as residing in any of these premises and whose names are not returned in the lists furnished by the landlord or keeper thereof. At least three days before the date of the next succeeding election, in any precinct where such premises are located, said officer shall send by registered mail to the inspector of election in said precinct a certified copy of the list he has thus prepared, with instructions to challenge the vote of each and all such persons if offered at the election, under subdivision five of section one thousand two hundred thirty of the Political Code. Whenever in the laws of this state the word "register" or "great register" is used with relation to elections, it shall be deemed to mean and include the relative and proper affidavits of registration, or both thereof, prepared and bound by the county clerk or registrar of voters. [Amendment approved May 21, 1917; Stats. 1917, p. 798.]

§ 1096. Qualifications for registration. Additional facts to be shown. The affiant making the affidavit of registration must be at least twenty-one years of age at the time of the next succeeding election; a citizen of the United States ninety days prior to such election; a resident of the state one year, of the county ninety days, and of the precinct thirty days next preceding such election and the affidavit must show such facts. It shall also show:

1. The name at length, including Christian or given name, and middle name, or initial, if any, said Christian or given name, if the name of a woman, to be preceded in all cases by the designation of Miss or Mrs., as the case may be.

2. The place of residence and postoffice address with sufficient particularity to identify the same and determine therefrom the voting precinct of such affiant. If the elector be not the proprietor or head of the house, or the wife or husband of such proprietor, then it must show upon what floor thereof, and what room such elector occupies in such house.

3. The occupation of affiant.

4. The height of affiant in feet and inches.

5. The country or state of nativity of affiant.

6. If foreign born, how citizenship was acquired; whether by citizenship of father, by provisions of a treaty or act of congress, by order of a court of naturalization, by marriage to a citizen, by naturalization of a parent or husband, or otherwise. The date or year when, and the

place or state where affiant became a citizen, shall be shown, except in the case of citizenship acquired by citizenship or naturalization of parents, by treaty, or by act of congress. When citizenship depends upon the citizenship or naturalization of parent or husband the name of such parent or husband shall appear.

7. The fact whether or not the elector desiring to be registered is able to read the constitution in the English language and to write his or her name, and whether or not the elector has any physical disability, by reason of which he or she can not mark the ballot; and if he or she can not mark the ballot by reason of physical disability, then the nature of such disability must be entered. The affiant, if able to write, shall sign such affidavit with his or her customary signature and the county clerk or registrar before whom such affidavit is made shall insert therein the date of such affidavit, which shall be the date of the jurat. The affiant may state in such affidavit the name of any political party or organization with which he intends to affiliate at the ensuing primary election, whether or not such party or organization is a party or organization qualified, at the time of such registration, to participate in such primary election according to the provisions of the direct primary law. [Amendment approved May 29, 1917; Stats. 1917, p. 1334.]

§ 1096a. Declaration of political party. Change of political affiliation. Affidavit. At the time of registering and of transferring registration, in all places where the primary election law is in force, each elector shall declare the name of the political party with which he intends to affiliate at the ensuing primary election or elections, and the name of such political party shall be stated in the affidavit of registration and the index thereto. If the elector declines to state the fact, the fact of such declination shall likewise be stated and no person shall be entitled to vote the ticket of any political party at any primary election, by virtue of such registration, unless he has stated the name of the political party with which he intends to affiliate at the time of such registration. Nor shall he be permitted to vote on behalf of any party or for delegates to the convention of any party other than the party so designated in the registration.

In case any elector shall have declined to designate or shall have changed his political affiliation prior to the close of registration for primary elections he is entitled to have such change recorded prior to the close of said registration upon application to the county clerk or registrar of voters as hereinafter provided. In case any elector shall have declined to designate or shall have changed his political affiliations prior to the close of registration, he may appear in person before the county clerk or registrar of voters, or any registration deputy of said county clerk or registrar of voters, and make affidavit substantially in the following form:

State of California, } ss.
County of —— }

—— being duly sworn, deposes and says that he is registered on the great register of the said county of —— as a —— (insert former party affiliation, or that he had declined to designate his party affiliation);

that since the date of such registration he has changed his political views and in good faith declares his affiliation with —— party.

Subscribed and sworn to before me, this —— day of ——, 19—.

The county clerk or registrar of voters shall take such affidavit without charge and shall file the same. [New section added May 29, 1917; Stats. 1917, p. 1335.]

§ 1097. Affidavit of registration. If elector is absent from residence. Subdivision 1. No person shall be registered as an elector except by affidavit of registration. Such affidavit must be made before the county clerk or officer charged with the registration of voters, or their deputy or registration clerk and shall set forth all the facts required to be shown in sections one thousand ninety-six and one thousand ninety-seven of the Political Code. If an elector is absent from the county in which he or she claims residence, he or she may appear before any judge or clerk of any court of record, or notary public, or if in a foreign country, before any minister, consul, or vice-consul of the United States, and may make and subscribe an affidavit as to his or her residence, specifying in what ward or precinct he or she claims residence; that he or she will be necessarily and unavoidably absent from said county, or city and county, on all the days allowed by law for general registration of electors, and setting forth in such affidavit each and all the matters required by sections one thousand ninety-six and one thousand ninety-seven of the Political Code of the state of California, and forward such affidavit, in duplicate, duly authenticated as above, by mail, inclosed in an envelope addressed to the county clerk of any county, or the registrar of voters in any county or city and county in which he or she claims to be an elector. Upon receipt of such affidavit by such clerk or registrar of voters within the time allowed by law for registration, the said affidavit shall be entered and bound by the clerk in the proper register in such precinct.

Subd. 2. **Conditions of registering foreign born.** No foreign-born person shall be registered unless:

(a) If a naturalized citizen upon the production of his or her certificate of naturalization or upon the production of a certificate of registration in the county of his or her last residence in the state, showing the date and place of naturalization, or upon his or her affidavit stating date and place of naturalization; provided, that any person registering for the first time in the state must produce his or her certificate of naturalization.

(b) If a citizen by virtue of his or her father being a citizen at the time of his or her birth, upon his or her sworn statement that his or her father was a citizen of the United States at the time of his or her birth and has been a resident thereof. Such statement need not be noted in full upon the affidavit of registration, but the words "I acquired citizenship by the citizenship of my father (naming him)" shall be sufficient.

(c) If a citizen by virtue of the naturalization of his or her parent, upon his or her affidavit that he or she became a citizen by such naturalization of his or her parent, naming such parent, that such naturalization took place during his or her minority and that he or she began to reside permanently in the United States while such minor child. Such state-

ment need not be noted in full upon the affidavit, but the words "I acquired citizenship by my father's, or mother's, naturalization," as the case may be, naming him or her, shall be sufficient.

(d) If a citizen by virtue of marriage to a citizen, the date and place of such marriage shall be entered upon the affidavit of registration together with the name of the husband.

(e) If a citizen by virtue of the naturalization of her husband the date or year and place of such naturalization together with the name of the husband shall be entered.

Subd. 3. **Affidavit must show all facts required. Substitutions permitted. Manner of printing. Width. Type. Form.** In every case the affidavit of the party must show all the facts required to be stated. The clerk or registrar of voters may cause to be written or printed upon the margin of the affidavit, in addition to any matter hereinafter provided for, all such words as are deemed necessary or convenient for the purpose of designating the precinct, district or political subdivision for which such affidavit is taken, or deemed necessary or convenient to indicate any removal or transfer of registration, and also any date or memorandum deemed necessary or convenient to indicate the number of the ballot voted by an elector as provided by section one thousand two hundred four of the Political Code, or any other reasonable memoranda deemed necessary or convenient for the purpose of enabling such clerk or registrar of voters to perform his duties in the assorting or classification or handling of such affidavits with correctness and dispatch. Wherever in the following form of affidavit the word "county" is inserted, if the affidavit is for use in a city and county, such last mentioned words may be printed or written in lieu of said word "county." In connection with the place of residence the affidavit may have printed either the word "precinct" or the word "street" or the word "avenue," or any or all of such words as the clerk or registrar of voters shall deem most convenient in practical use for the territory in which such affidavits are to be used. In designating the residence of the voter or the postoffice address it shall not be necessary in either case to repeat the county or city and county or state where the name of said county or city and county or state previously appear. In connection with the statement regarding the citizenship of affiant, the affidavit may have printed in brackets statements of the various methods of acquiring citizenship, and it shall be sufficient to underline, or otherwise mark, with pen and ink, or indelible pencil, that statement applicable to the particular affiant. The words printed in the body of the affidavit, which by reason of statement of the voter are not applicable to such registration, shall not be deemed a portion of such affidavit of registration. The lines to indicate the separation between the margin of the affidavit of registration and the said margin shall be at the top and on the right side of such affidavit, and may be double or single lines in the discretion of the clerk or registrar of voters of the county or city and county or territory for which the affidavit is to be used. The affidavit shall be printed in horizontal lines. Wherever any blank space is left in any line for the entry of any matter the lines shall not be less than one-third of an inch apart vertically. Commencing with the first statement of the affidavit proper each statement shall be numbered immediately at the left of such state-

ment in a numerical sequence, the first statement commencing with number one, and so on to the end, but the jurat and space for the signature of the voter need not be numbered. The horizontal width of the affidavit, separate from any and all margin, shall not be less than seven inches, and the margin upon all sides and at top and bottom shall be of such width as may be determined by the clerk or the registrar of voters. The words "affidavit of registration" shall be not less than twenty-four point black-face type. Pen and ink or indelible pencil must be used in making the portions of the affidavit which are not printed. The matter in the body of the affidavit, where the size of type is not otherwise specified, shall be not less than ten-point plain-face type, save that words inserted in parentheses, which are for the information or instruction of the deputies or registration clerks, may be in smaller type at the discretion of the county clerk or registrar of voters. Subject to the foregoing provisions the body of said affidavit shall be substantially in the following form:

STATEMENT OF TRANSFER OR CHANGE OF NAME.

I am registered under the name of_____

_____from the following precinct or address

_____in this county;

or in_____county, and I hereby authorize the cancellation

my last previous registration in said_____county).

NAME OR NUMBER OF PRECINCT.

_____

STATE OF CALIFORNIA
) COUNTY OF ( ) } ss.

AFFIDAVIT OF REGISTRATION.

The undersigned affiant, being duly sworn, says: I will be at least twenty-one years of age at the time of the next succeeding election, a citizen of the United States ninety days prior thereto, and a resident of the State one year, of the County ninety days, and of the Precinct thirty days next preceding such election, and will be an elector of this County at the next succeeding election.

. I have not (have) registered from any other precinct in the state since January 1, 1916.*
Mark out words "have not" or "have" as the case may be, and if applicant has so previously registered, or has previously registered under another name, fill out the appropriate blanks at the top of the affidavit, under "statement of transfer or change of name.")

. My full name is_____
(Including christian or given name, and middle name or initial, and in the case of women, the prefix Miss or Mrs.)

. My residence is_____

between_____ and _____Streets_____Floor, Room_____

Post office address at_____

. My occupation is_____

. My height is_____feet _____ inches

. I was born in_____
(State or Country.)

. I acquired citizenship by (Underline method of acquiring citizenship.) { a. Decree of Court. b. Father's naturalization. c. Citizenship of father d. Marriage to a citizen. e. Naturalization of my husband. f. Act of Congress. g. By treaty.

(when)_____ (where) _____

My father's / husband's name is (was)_____
(To be filled out when citizenship depends on citizenship or naturalization of parent or husband.)

. I can___ read the Constitution in the English language; I can_____ write my name; I am entitled to vote by reason of having been on November 6, 1894 { a. An elector. b. More than sixty years of age.
I can.... mark my ballot by reason of.....
(State physical disability, if any.)

. I intend to affiliate at the ensuing primary election with the.....Party
(If affiliation is not given, write or stamp "Declines to State."

Subscribed and sworn to before me this

_____day of_____1916

_____
County Clerk (or Registrar of Voters).

_____
(Affiant sign here.)

*Or the year when registration commenced.

Subd. 4. **Change of name by marriage.** Whenever any elector, between the time of her last registration and the time for the closing of registration for any given election in the same county or city and county, shall have lawfully changed her surname by a change or assumption of marital relation she shall be entitled to reregister under her new or changed name, upon an additional statement made at the time of such reregistration, giving the name under which she was so last registered in said county or city and county, and the residence given and contained in said last affidavit of registration, which additional statement shall be printed or written upon the margin of such affidavit of reregistration before the said affidavit is signed, and shall be deemed a part thereof. Upon such registration the last previous registration of such elector shall be canceled. And in case any elector shall reregister or transfer his or her registration from one precinct to another the former address or precinct shall be noted in the margin of such affidavit, and the former registration shall thereupon be canceled.

Subd. 5. **Registration otherwise than above.** No person shall be registered except as above provided unless upon the production and filing of a certified copy of the judgment of the superior court directing such entry to be made. [Amendment approved May 29, 1917; Stats. 1917, p. 1338.]

§ 1115. **Index to registration books. Number of copies. Index furnished to candidates. Indexes for primaries. State librarian.** Within five days after the binding of said books by precincts the clerk shall prepare an index of each book, said index to contain the numbers, names, occupations and addresses, as they appear in said books. Such names shall include Christian or given names, the middle name or initial, if any; and, if the name be that of a woman, the Christian name shall be preceded by the designation of "Miss" or "Mrs." as the case may be. The clerk shall have at least one hundred copies of said index printed for the use of said county, and he shall have printed and shall furnish to the municipalities within said county, such additional number of copies thereof, not exceeding fifty, as the governing body of such municipalities shall by resolution require. The county clerk shall furnish upon written or oral demand of every candidate, who is to be voted for in said county, city, or city and county or any political subdivision of said county, city, or city and county, a printed index of the registration, for such primary and general elections in which said candidate will participate, at a cost of fifty cents per thousand names. All such moneys collected shall be deposited in the county treasury, to the credit of the general fund. The number of copies of said index necessary to be printed shall apply only to the index prepared for use at general elections. In counties where indexes are prepared for primary elections, a smaller number of such indexes may be printed. The clerk shall have bound together in one or more volumes, a general index of said books arranged alphabetically by precincts, and shall keep at least one copy of said general index in his office for public reference. He shall also transmit one copy of said general index to the state librarian at Sacramento. [Amendment approved May 14, 1917; Stats. 1917, p. 436.]

§ 1188. **Nomination of candidates otherwise than by primary election.** A candidate for any public office for which no nonpartisan can-

didate has been nominated at any primary election may be nominated subsequent to said primary election, or in lieu of any primary election, in the manner following: A nomination paper containing the name of the candidate to be nominated, with other information required to be given in the nomination papers provided for in the direct primary law then governing primary elections, shall be signed by electors residing within the district or political subdivision for which the candidate is to be presented, equal in number to at least one per cent of the entire vote cast at the last preceding general election in the state, district or political subdivision for which the nomination is to be made subject to the restrictions contained in said direct primary law. The provisions of said direct primary law as therein applied to nonpartisan offices, when the nomination to be made under this section is for an office for which nominations are made at the August primary election, and the provisions of that law as therein applied to primaries other than the August primary election and the May presidential primary election, when the nomination to be made under this section is for a municipal office or for any office to which that law does not apply, shall substantially govern as to the manner of the appointment of verification deputies, the form of nomination papers and the securing of signatures thereto, and fastening together of sections of the nomination paper containing such signatures, and the filing thereof with the county clerk, or the certification thereto by the county clerk and transmission thereof to the secretary of state or to the city clerk or secretary of the legislative body of any municipality, as the case may be, the filing of the candidate's affidavit, the payment of a filing fee, and all other things necessary to get the name of a candidate under this section upon the ballot, except that such provisions shall be directed toward getting the candidate's name on the ballot for a general or municipal election or a special election and not on the ballot for nomination at a primary election. In addition to the other matter required to be set forth on the candidate's nomination paper, it must also be set forth that each signer thereof did not vote at the primary election immediately preceding at which a candidate was nominated for the public office mentioned in said nomination paper; provided, that this statement shall be omitted in case no candidate was nominated at said primary election for the public office mentioned in said nomination paper.

Upon the filing of a sufficient nomination paper and affidavit by any candidate nominated under the provisions of this section and the payment of the filing fees as hereinbefore provided, the name of such candidate shall go upon the ballot at the ensuing general or municipal election according to the provisions of section one thousand one hundred ninety-seven of this code. [Amendment approved May 29, 1917; Stats. 1917, p. 1336.]

§ 1192. **Time for filing nomination papers.** Nomination papers required to be filed with the secretary of state, or with the county clerk, shall be filed not more than sixty days, nor less than thirty-five days before the day of election, when the nomination is made by electors as provided in section one thousand one hundred eighty-eight of this

code. Nomination papers required to be filed with the clerk or secretary of the legislative body of any city or town, shall be filed not more than forty days nor less than twenty days before the day of election, when the nomination is made by electors as provided in section one thousand one hundred eighty-eight of this code. [Amendment approved May 29, 1917; Stats. 1917, p. 1336.]

§ 1239. **Rules for determining place of residence.** The board of election, in determining the place of residence of any person, must be governed by the following rules, as far they are applicable:

1. That place must be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning;

2. A person must not be held to have gained or lost residence by reason of his presence or absence from a place while employed in the service of the United States, or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum, or prison;

3. A person must not be considered to have lost his residence who leaves his home to go into another state, or precinct in this state, for temporary purposes merely, with the intention of returning;

4. A person must not be considered to have gained a residence in any precinct into which he comes for temporary purposes merely, without the intention of making such precinct his home;

5. If a person remove to another state with the intention of making it his residence, he loses his residence in this state;

6. If a person remove to another state with the intention of remaining there for an indefinite time, and as a place of present residence, he loses his residence in this state, notwithstanding he entertains an intention of returning at some future period;

7. The place where a man's family resides must be held to be his residence; but if it be a place for temporary establishment for his family, or for transient objects, it is otherwise;

8. If a man have a family fixed in one place, and he does business in another, the former must be considered his place of residence; provided, that any man having a family, and who has taken up his abode with the intention of remaining, and whose family does not so reside with him, must be regarded as a resident where he has so taken up his abode;

9. The residence of the husband is the residence of the wife except in the case mentioned in the provision in subdivision eight hereof;

10. The mere intention to acquire a new residence, without the fact of removal, avails nothing, neither does the fact of removal, without the intention. [Amendment approved May 10, 1917; Stats. 1917, p. 416.]

§ 1483. **Rights of students under diplomas from Hastings College of the Law.** [Repealed May 23, 1917; Stats. 1917, p. 880.]

§ 1489. **Powers and duties of normal school trustees.** The powers and duties of each board of trustees of the state normal schools of California are as follows:

1. To prescribe rules for their government and the government of the school;

2. To prescribe rules for the reports of officers and teachers of the school and for visiting other schools and institutions;

3. To provide for the purchase of school apparatus, furniture, equipment, stationery, and text-books for the use of students;

4. To establish at their discretion, and maintain model and training schools of the primary, grammar and intermediate grade, including the ninth year grade, and, in their discretion, of the kindergarten grade, and to require the students of the normal schools to teach and instruct classes therein;

5. To establish at their discretion courses for the training of teachers of drawing, music, physical culture, and commercial, technical, or industrial subjects in the elementary and secondary schools of the state and upon the satisfactory completion of these courses to grant diplomas of graduation therefrom;

6. To elect the president of the school, who shall be ex officio secretary of the board, and an assistant secretary who shall receive such salary as may be allowed by the board; and to elect the teachers, upon their nomination by the president of the school, fix their salaries, and prescribe their duties; provided, that after the president or a teacher has served successfully and acceptably in the school for the period of two years prior to or after the passage of this act, his or her appointment thereafter may, at the discretion of the board of trustees, be made for a term not to exceed four years, unless removed for cause; and provided, further, that in case a teacher employed in a California state normal school is engaged to instruct in normal extension work, evening work, special Saturday work, or summer school work, he may receive such additional compensation for the same as may be agreed upon by the employing board of trustees;

7. To control and expend all moneys appropriated for the support and maintenance of the school, and all moneys received for tuition or donations;

8. To cause a record of all their proceedings to be kept, which shall be open to public inspection at the school;

9. To keep open to public inspection an account of receipts and expenditures;

10. To annually report to the state superintendent of public instruction a statement of their transactions, and of all matters pertaining to the school;

11. To transmit with such report a copy of the president's annual report;

12. To revoke any diploma by them granted, on receiving satisfactory evidence that the holder thereof is addicted to drunkenness, is guilty of gross immorality, or is reputedly dishonest in his dealings, or is guilty of persistent defiance of, and refusal to obey the laws regulating the duties of teachers; provided, that such person shall have at least thirty days' previous notice of such contemplated action and shall, if he asks it, be heard in his own defense;

13. On recommendation of the faculty and president of the school, to exclude students, who, because of poor scholarship or other evidences

of unfitness, are judged incapable of becoming successful teachers in the public schools of the state;

14. To establish and maintain courses of study only in accordance with the rules and regulations prescribed by the state board of education as provided in section one thousand five hundred nineteen of the Political Code;

15. To detail one or more regular teachers of the normal school for normal school extension service in the rural schools of the state and to pay the salary and transportation expenses of any such teacher; provided, that the normal school extension service in any county shall be given only with the approval of the county superintendent of schools. Such normal school extension service may include a special study of rural school conditions and problems, and supervision and instruction of classes in the rural schools. [Amendment approved May 31, 1917; Stats. 1917, p. 1651.]

§ 1505. **Supervision by superintendent of public instruction.** [Repealed May 31, 1917; Stats. 1917, p. 1419.]

§ 1519. **Powers.** The state board of education shall have power and it shall be its duty:

Adopt rules. Rules for normal schools. First—to adopt rules and regulations not inconsistent with the laws of this state for its own government, for the government of its appointees and employees, for the government of the day and evening elementary schools, the day and evening secondary schools, the technical and vocational schools of the state, for the government of the several normal schools of the state as hereinafter provided, and for the government of such other schools, excepting the University of California, as may receive in whole or in part financial support from the state. Such rules and regulations shall be published for distribution as soon as practicable after adoption.

At the joint meeting of this board and the representatives of the normal schools of the state provided for in section one thousand five hundred eighteen *a* of the Political Code, matters affecting the normal schools may be presented by members of the board, by the superintendent of public instruction and the commissioners of education, and by the representatives of the normal schools, and, after due presentation and consideration, the board may adopt rules and regulations for the government of the normal schools in the following matters:

(a) **Standardizing course of instruction.** The standardizing, as far as the board shall deem it wise and necessary, of the courses of instruction offered in the several normal schools for the preparation of teachers for the public schools of the state.

(b) **Courses for special teachers.** The establishing and conducting in any or all of the normal schools of the state of such courses of instruction as shall prepare for the public schools of the state special teachers in any or all of the subjects of drawing, music, physical education, and commercial, technical or industrial branches.

(c) **List of text-books.** The compiling and publishing of a list of text-books for use by the students of the several normal schools of the

state; provided, that the state series of text-books shall be used in the grades and classes for which they are adapted, and that all other regular text-books shall be selected by the various normal school authorities from said list.

(d) **Standards of admission.** The prescribing of the standards of admission for students entering the normal schools, and the rules for transfer of pupils from one normal school to another; provided, that a student for good cause, may, upon recommendation of the president of the school from which he seeks to be transferred, enter any other normal school and without examinations be admitted to classes corresponding to those in the school which he has left.

(e) **Graduation.** The determination of the time and standards for graduation from the state normal schools.

Assistant superintendents of public instruction. Second—To appoint three assistant superintendents of public instruction, who shall not be subject to the provisions of any civil service law of the state, and who shall be known and designated as follows:

(a) One commissioner of elementary schools, who shall be experienced in teaching in and supervising elementary schools.

(b) One commissioner of secondary schools, who shall be experienced in teaching and who has been principal or supervisor of secondary schools.

(c) One commissioner of industrial and vocational education who has had experience as a supervisor of industrial or vocational education.

Subpoenas for witnesses before board. Third—to issue subpoenas to compel the attendance of witnesses before the board or any member thereof, in the same manner that any court in this state may; and whenever the testimony of any witness upon any matter pending before it is material, the president must cause the attendance of the witness before such board, or a member thereof, to testify concerning such matter, and the board may make a reasonable allowance therefor, not exceeding the fees of witnesses in civil cases, which must be paid for out of the appropriation for the contingent expenses of the board, but in no instance can an allowance be made in favor of a witness who appears in behalf of a claimant.

Seal. Fourth—To adopt and use, in authentication of their acts, an official seal.

Printing. Fifth—To have done by the state printer, or other officer having the management of the state printing, any printing required by it; provided, that all orders for printing shall first be approved by the state board of control.

General duties. Sixth—The state board of education shall study the educational conditions and needs of the state; shall make plans for the improvement of the administration and efficiency of the public schools of the state; shall have power to conduct educational investigations and shall employ educational and business experts, within the limits of its appropriation therefor; shall annually require reports as to the activities of the superintendent of public instruction and the assistant super-

intendents, and such other employees as it may direct to report, for submission to the governor, and the same shall submit biennially to the governor, on or before the fifteenth day of September next preceding the regular session of the legislature, a report of its transactions for the preceding two years, together with recommendations of its needs for the coming biennium, and such recommendations as to changes in laws or new educational legislation as may seem to it to be necessary.

Acting secretary. Seventh—To appoint an acting secretary, who shall also act as executive officer of the board in the absence of the superintendent of public instruction from his office or in case of his incapacity for duty. [Amendment approved May 18, 1917; Stats. 1917, p. 699.]

§ 1519a. **Powers of state board.** The state board of education shall have power and it shall be its duty:

Credentials for high school certificates. First—To prescribe by general rule the credentials upon which persons may be granted certificates to teach in the high schools of this state. No credentials shall be prescribed or allowed, unless the same, in the judgment of said board, are the equivalent of a diploma of graduation from the University of California, and are satisfactory evidence that the holder thereof has taken an amount of pedagogy equivalent to the minimum amount of pedagogy prescribed by the state board of education of this state, and include a recommendation for a high school certificate from the faculty of the institution in which the pedagogical work shall have been taken.

Special cases. Second—To consider the cases of individual applicants who have taught successfully for a period of not less than seventeen school months, and who are not possessed of the credentials prescribed by the board under the provisions of this section, and where the evidence submitted by the applicant does not satisfy the board it may, in its discretion, provide for his examination. The said board, in its discretion, may issue to such applicants high school credentials upon which they may be granted certificates to teach in the high schools of the state. In such special cases, the board may take cognizance of any adequate evidence of preparation which the applicants may present. The standard of qualification in such special cases shall not be lower than that represented by the other credentials named by the board under the provisions of subdivision first of this section.

Special certificates for special subjects. Third—To establish and prescribe by general regulations the qualifications upon which county boards of education may grant to any person a special certificate to teach any special subject or subjects in such grades as are mentioned therein; provided, that no qualification shall be prescribed for certification to teach in any grade whatever a vocational subject unless the candidate shall have had, as a minimum, three years' experience as a journeyman, or, where this terminology does not apply, its equivalent, in the vocation in which he desires certification.

Applicants without necessary qualifications. Fourth—To consider the cases of individual applicants who are not possessed of the qualifications prescribed in subdivision third of this section, or in the general regulations of the state board of education, and where the evidence

submitted by any applicant who meets the academic requirements of the board does not satisfy the board of his knowledge of the special subject and methods of teaching the same, it may, in its discretion, provide such examination as it may deem expedient and wise. When the state board of education is satisfied that any applicant possesses qualifications equivalent to those so specified, it may issue to such applicant a state board credential upon which county boards of education may grant to him a special certificate to teach such special subject or subjects as are listed in said credential in such grades and for such length of time as therein specified.

Life diplomas. Fifth—To grant life diplomas for four grades, valid throughout the state, as follows:

(1) High school: Authorizing the holder to teach in any primary or grammar or high school.

(2) Elementary school: Authorizing the holder to teach in any elementary school.

(3) Kindergarten-primary: Authorizing the holder to teach in the kindergarten class of any primary school.

(4) Special: Authorizing the holder to teach in any school such special branches and in such grades as are named in such diploma.

Qualifications for life diplomas. Fee. Sixth—To issue, except as provided in sections one thousand five hundred three and one thousand seven hundred seventy-five of this code, life diplomas only to such persons as have held for one year, and still hold, a valid county, or city and county, certificate, corresponding in grade to the grade of diploma applied for, and who shall furnish satisfactory evidence of having had a successful experience in teaching of at least forty-eight months. Not less than twenty-one months of said experience shall have been in the public schools of California. Every application must be accompanied to the state board of education by a certified copy of a resolution adopted by at least a three-fourths vote of all the members composing a county, or city and county, board of education, recommending that the diploma be granted, and also by an affidavit of the applicant, specifically setting forth the places in which, and the dates between which, said applicant has taught. The application for any credentials or diploma or document mentioned in this chapter must be accompanied by a fee of two dollars, and in addition thereto each applicant permitted to take an examination shall, before he is so permitted, pay a fee of ten dollars. All of the above fees must be paid into the state treasury to the credit of the contingent fund of the state board of education and applied by said board in defraying or in partially defraying the expense of investigating the qualifications of candidates, issuing credentials, documents or diplomas, and providing for the employment of professional experts to conduct examinations for special credentials and high school credentials, as specified in subdivisions second and fourth of this section.

Revocation of life diplomas. Seventh—To revoke or suspend for immoral or unprofessional conduct, or for evident unfitness for teaching, life diplomas, documents issued under the provisions of sections one thousand five hundred three and one thousand seven hundred seventy-five of this code, or credentials issued in accordance with the provisions of

this section; and to adopt such rules for said revocation as they may deem expedient or necessary.

Commission of credentials. Eighth—The state board of education, in order to meet emergencies, is hereby authorized to create a commission of credentials, to consist of the commissioner of elementary schools, the commissioner of secondary schools and the commissioner of industrial and vocational education. This commission, when directed by the board, shall have authority to review the cases of applicants for the special credentials and the high school credentials, specified in subdivisions second and fourth of this section, and when said commission is satisfied that any candidate fully meets the standards maintained by the state board it may issue the proper credential; provided, that said credential to be valid must be issued upon the regular form used by the state board of education and must be signed by the secretary and president of said state board. [Amendment approved May 18, 1917; Stats. 1917, p. 701.]

§ 1519b. Powers of state board of education. The state board of education shall have power and it shall be its duty:

Compile text-books. First—To compile in whole, or in part, and to manufacture such text-books as are now in use; to compile, or cause to be compiled, and manufacture such other additional text-books or books, as it may deem necessary or proper for use in the elementary schools of the state, as provided by section one thousand six hundred sixty-five of the Political Code; to purchase books when necessary, or lease plates, maps, engravings or copyright matter for use in manufacturing such text-books; contract for, or lease copyrights for use in compiling, printing or publishing such books; to provide for the payment of royalties or for the leasing of plates or making the whole or any part of a book, and to do any or all things that may be necessary for the purpose of procuring a uniform series of text-books for use in the elementary day and evening schools of the state.

Contract for use of plates, etc. Second—Whenever any plates, maps, or engravings of any publisher or author are adopted for use, or whenever any books have been purchased, as hereinbefore provided, the state board of education shall enter into a contract for not less than four years nor more than eight years for the use of the same in the elementary day and evening schools of the state, and shall require a good and sufficient bond of the owner or owners of such books, plates, maps or engravings under a written guaranty that the same shall be kept revised and free from all errors and up to date as may be required by the state board of education.

Copyrights. Uniform use of text-books. Third—The state board of education may secure copyrights in the name of the people of the state of California, to any book that may be compiled. Whenever any one or more of the state text-books shall have been compiled or purchased, published and adopted, the superintendent of public instruction, on the order of the state board of education shall issue an order to all county, city, city and county school superintendents by sending notices by registered mail to said superintendents who in turn shall notify the secretaries of all boards of education in the cities and the clerk of the board

of school trustees and the teacher or principal in each school district, requiring the uniform use of such book, in the grades of the elementary day and evening schools for which they have been adopted, and when such order has thus been given and published, the same shall remain in force and effect for a term of not less than four nor more than eight years; provided, that such order for the uniform use of such book, shall not take effect until the beginning of the next fiscal year; namely, the first of July next following the issue of the order, or at such time thereafter as may be fixed by the state board of education; provided, that the book shall go into use at the beginning of a fiscal year.

When a book has been adopted, the state board of education shall enforce the uniform use of such book, in the elementary day and evening schools for which said book has been adopted.

Refusal to use state text-books. Fourth—Any teacher, or city, county, or city and county superintendent of schools or any board of education, refusing or neglecting to use said series of state text-books at the time required in the last preceding subdivision of this act, shall be guilty of a misdemeanor, and upon proof thereof of such refusal or neglect, shall be subject to a fine not exceeding one hundred dollars for each offense; provided, that nothing herein contained shall in any way restrict the additional use of such books as are now provided in section one thousand seven hundred twelve of the Political Code.

Duties of superintendent of state printing. Fifth—The superintendent of state printing shall have supervision of all of the mechanical work connected with the printing of such books as may be compiled and adopted subject to the approval of the state board of education or such representative of the state board of education as may be appointed to supervise such work. The superintendent of state printing shall print and bind such books in lots of not less than five thousand and turn them over to the state board of education at the warehouse, and receive payment therefor on the approval of the items of said cost by the state board of education or the duly authorized agent of said board, and upon the approval of the bill by the board of control. He shall furnish one copy of a cost-finding report showing items of work and the materials and the exact cost of each item for each of said lot of books, to the state board of education and one copy to the board of control. The superintendent of state printing shall on the first day of each month furnish to the state board of education a detailed statement showing the name and number of books published by him during the preceding month, and the number then in course of publication.

Board of education to fix cost price of books. Sixth—On receiving a copy of the cost-finding report and estimated cost of the publishing of any book, the state board of education thereupon shall determine and fix the cost price of such books by adding to the cost of manufacture, the contract price to be paid as royalty or for the use of plates, maps, or engravings or copyrighted matter, and said price, to which has been added ten per cent of such price to cover overhead expense, shall be deemed to be the whole cost of publication of such book at Sacramento. The state board of education may provide for the sale at not less than cost price of state text-books to private schools, individuals, or dealers

under such rules and regulations as may be adopted by said board of education; provided, that such books be not sold by dealers for more than the cost price at Sacramento, plus the postage, packing and cartage on such books, which prices shall be established by said board of education.

The state board of education may provide for the disposition of such text-books as are no longer in a fit condition to be used for purposes of instruction; provided, that whenever in its judgment it would be practicable to sell such old text-books for use in the manufacture of paper pulp or similar substances, the highest price obtainable shall be secured therefor, and the money so obtained deposited in the state school-book fund. [New section added May 18, 1917; Stats. 1917, p. 704.]

§ 1519c. **State school book fund.** The appropriation heretofore made, known as the "text-book appropriation," shall be subject to the draft of the state board of education for necessary expenses incurred by it for office supplies, the hiring of expert assistants, and for other necessary expenses; provided, that all claims shall be presented to the board of control for its approval. All moneys that have been received or may hereafter be received from the sale of said series of state text-books to private schools or to dealers or persons or that may be appropriated by the legislature for publishing said series of state text-books, shall be kept by the state treasurer in a fund known as the "state school book fund." This fund shall be subject to the order of the state board of education for all expenses incurred by the superintendent of printing for all material, labor, and other expenses necessary for publishing state school text-books, and for all books purchased, for the cost of shipping free text-books, and for necessary employees in connection with such shipment as may be determined by the state board of education. All claims to be drawn, after being certified by the claimant and the items approved by the secretary of the state board of education shall be presented to the board of control for its approval, and upon the approval of said board of control, the state controller is hereby authorized and directed to draw his warrant on the state treasurer, who is hereby directed to pay the same. [New section added May 18, 1917; Stats. 1917, p. 706.]

§ 1519d. **Order from head of state institution.** The president or principal of any state institution in which instruction is given in the elementary branches, may order such state text-book, as may be used to advantage, for use in said institution, on blanks supplied by the superintendent of public instruction; provided, such orders shall be subject to revision by said superintendent of public instruction. Such books shall be delivered free of cost to such institution on the order of the superintendent of public instruction, in the usual method of shipment. [New section added May 18, 1917; Stats. 1917, p. 707.]

§ 1521. **Compensation, members of state board of education.** First—The members of the state board of education shall receive as compensation fifteen dollars per day when the board is in session. They shall also receive ten dollars per day while engaged in committee work at the Sacramento or Los Angeles offices of the board or elsewhere under the

direction of the state board of education; provided, that the total amount of such per diem for committee work, for all members of the board, shall not exceed two thousand five hundred dollars for any fiscal year. They shall also receive their actual and necessary traveling expenses.

Salaries, assistant superintendents of public instruction. Second—Each assistant superintendent of public instruction provided for in section one thousand five hundred nineteen of the Political Code shall receive a salary of four thousand dollars per annum, payable at the same time and in the same manner as the salary of state officers is paid. They shall also receive their actual and necessary traveling expenses while on official business.

Clerical help. Third—Within their appropriation, the state board of education may appoint such clerical and other help as may from time to time be necessary. [Amendment approved May 19, 1917; Stats. 1917, p. 750.]

§ 1532. **Duties of superintendent of public instruction.** It is the duty of the superintendent of public instruction:

Superintendence of schools. First—To superintend the schools of this state.

Report of governor. Second—To report to the governor, on or before the fifteenth day of September preceding each regular session of the legislature, a statement of the condition of the public elementary and secondary schools, the state normal schools and other educational institutions supported in whole or in part by the state.

Statements to accompany report. Third—To accompany his report with tabular statements, showing the number attending public schools, and the average attendance; the amount of state school fund apportioned, and the sources from which derived; the amount raised by county, city and county and district taxes, or from other sources of revenue, for school purposes; and the amount expended for salaries of teachers, for building schoolhouses, for district school libraries, and for incidental expenses.

Apportion state school fund. Fourth—To apportion the state school fund; and to furnish an abstract of such apportionment to the state controller, the state board of control, and to the county and city and county auditors, county and city and county treasurers and to the county and city and county school superintendents of the several counties of the state. In apportioning said fund he shall apportion to every county and to every city and county two hundred fifty dollars for every teacher determined and assigned to it on average daily attendance by the county or city and county school superintendent for the next preceding school year, as required of the county or city and county school superintendent by the provisions of section one thousand eight hundred fifty-eight of this code, and after thus apportioning two hundred and fifty dollars on teacher basis, he shall apportion the balance of the state school fund to the several counties or cities and counties according to their average daily attendance as shown by the reports of the county or city and county school superintendents for the next preceding school year.

Drawing orders for funds. Fifth—To draw his order on the controller in favor of each county or city and county treasurer for school moneys apportioned to the county or city and county.

Furnish blank forms. Sixth—To prepare, have printed, and furnish all officers charged with the administration of the laws relating to the public schools, and to teachers, such blank forms and books as may be necessary to the discharge of their duties, including blank teachers' certificates to be used by county and city and county boards of education.

Supply school laws. Seventh—To have the laws relating to the public schools printed in pamphlet form, and to supply school officers and school libraries with one copy each.

Visit orphan asylums. Eighth—To visit the several orphan asylums to which state appropriations are made, and examine into the course of instruction therein.

Visit schools. Ninth—To visit the schools in the different counties, and inquire into their condition; and the actual traveling expenses thus incurred, provided that they do not exceed one thousand eight hundred dollars per annum, shall be allowed, audited and paid out of the general fund in the same manner as other claims are audited and paid.

Authenticate orders. Tenth—To authenticate with his official seal all drafts or orders drawn by him, and all papers and writings issued from his office.

Bind documents. Eleventh—To have bound, at the state bindery, all valuable school reports, journals, and documents in his office, or hereafter received by him.

Report daily attendance. Twelfth—To report to the controller, on or before the tenth day of September of each year, the total average daily attendance in the elementary day and evening schools including the special day and evening elementary school classes, the average daily attendance in the day and evening high schools including the special day and evening high school classes, as shown by the annual reports of the county superintendents of the several counties on file in his office for the school year immediately preceding, and the average daily attendance of pupils upon each of such part-time vocational courses as are established and maintained by each high school district under the provisions of section one thousand seven hundred fifty *c* of this code, and as are shown by these reports and approved by the commissioner of vocational education.

Deliver records to successor. Thirteenth—To deliver over, at the expiration of his term of office, on demand, to his successor, all property, books, documents, maps, records, reports, and other papers belonging to his office, or which may have been received by him for the use of his office.

Visit state normal schools. Fourteenth—To visit and inspect each state normal school from time to time, inquire into its condition and management, require such reports as he may deem proper from the teachers of the school and exercise general supervision over the same. [Amendment approved May 31, 1917; Stats. 1917, p. 1417.]

§ 1534. **Orders for text-books.** All orders for text-books shall be forwarded to the superintendent of public instruction on blanks furnished by him. He shall investigate such orders and make necessary changes and forward the same to the person in charge of the warehouse and shipment of books with definite orders for shipment. He shall keep an accurate account of the amount of money received from the sale of text-books for each month and report to the controller on or before the fifth of the succeeding month, the number of books sold, or distributed, and the amount of money collected therefor, and shall pay such money into the treasury to the credit of the "school text-book fund." The amount fixed for royalty and costs of plates or copyright matter in favor of any company, or individual, shall be presented by the superintendent of public instruction to the state board of education for its approval. Said claim shall be paid quarterly, in the same manner as other claims upon the state treasury, on the approval of the board of control.

On receiving orders from the superintendent of public instruction for text-books the person in charge of the warehouse and shipment of books shall forward by freight, express or mail, as directed by the superintendent of public instruction, to the nearest freight depot, express or postoffice, in the name of the clerk of the school district or the city superintendent of schools in cities, the number of books called for in said order. [New section added May 18, 1917; Stats. 1917, p. 706.]

§ 1543. **Duties of county superintendent of schools.** It is the duty of the superintendent of schools of each county:

Superintending schools. First—To superintend the schools of his county.

Apportion school moneys. Second—To apportion the school moneys to each school district as provided in section one thousand eight hundred fifty-eight of this code, at least four times a year. For this purpose he may require of the county auditor a report of the amount of all school moneys on hand to the credit of the several school funds of the county not already apportioned; and it is hereby made the duty of the auditor to furnish such report when so required; and whenever an excess of money has accumulated to the credit of a school district beyond a reasonable amount necessary to maintain a school for eight months in such district for the year, the superintendent of schools shall place said excess of money to the credit of the unapportioned school funds of the county, and shall apportion the same as other school funds are apportioned.

Requisitions. Third—(a) On the order of the board of school trustees, or board of education of any city or town having a board of education, to draw his requisition upon the county auditor for all necessary expenses against the school fund of any district. The requisitions must be drawn in the order in which the orders therefor are filed in his office. Each requisition must specify the purpose for which it is drawn, but no requisition shall be drawn upon the order of the board of school trustees or board of education against the funds of any district except the teachers' or janitors' salaries, unless such order is ac-

companied by an itemized bill showing the separate items, and the price of each, in payment for which the order is drawn; nor shall any requisition for teachers' or janitors' salaries be drawn unless the order shall state the monthly salary of teacher or janitor, and name the months for which such salary is due. Upon the receipt of such requisition the auditor shall draw his warrant upon the county treasurer in favor of the parties for the amount stated in such requisition. The order of the board of school trustees, or board of education, shall be made only on the form of blank approved by the superintendent of public instruction; provided, that said blanks shall be printed and furnished to the school districts by the board of supervisors of the respective counties of the state, and when signed by at least two members of the board of trustees, or the officials authorized to sign orders for the board of education, shall be transmitted to the superintendent, who shall, in case he approve such demand, indorse upon it, "examined and approved," together with the number and date when approved, and shall, in attestation thereof, affix his signature thereto, and deliver the same to the claimant, or his order, who shall transmit the same to the auditor, who shall, in case he allows said demand, indorse upon it "allowed," together with the number and date when allowed, and shall, in attestation thereof, affix his signature thereto, and deliver the same to the claimant and make a proper record thereof and charge against the particular fund of the particular district against which such demand was allowed; and said demand when so approved and signed by the superintendent, and when so allowed and signed by the auditor, shall constitute the requisition on the auditor, and the warrant on the treasury within the meaning of this act; and provided, further, that the county superintendent of schools, after examining and approving any demand, may transmit the same directly to the county auditor, who after allowing such demand shall return the same to the county superintendent of schools, who shall thereupon return said demand to the governing board of the school district, which shall issue said demand to the claimant or to his order.

(b) **Transfer of funds for pupils of intermediate school course.** On the order of the board of trustees or board of education of any elementary school district located within, or having the same boundaries as, a high school district which has established an intermediate school course as provided for in section one thousand seven hundred fifty *a* of the Political Code, to transfer from the school funds of such elementary school district to the fund of the board having control of such intermediate school course, such sum as may be agreed upon, as provided in section one thousand six hundred seventeen *d* of the Political Code, by said board of trustees or board of education and said board having control of such intermediate school course, for the tuition of pupils residing in such elementary school district and attending such intermediate school course; provided, that all of the funds so transferred shall be applied exclusively to the support of the grades of such intermediate school course corresponding to the seventh and eighth grades of the regular elementary schools.

Register of requisitions. Fourth—To keep, open to the inspection of the public, a register of requisitions, showing the fund upon which the

requisitions have been drawn, the number thereof, in whose favor, and for what purpose they were drawn, and also a receipt from the person to whom the requisition was delivered.

Examine schools. Fifth—To visit and examine each school in his county at least once in each year. For every school not so visited the board of supervisors must, on proof thereof, deduct ten dollars from his salary.

Teachers' institutes. Sixth—To preside over teachers' institutes held in his county, and to secure the attendance thereat of lecturers competent to instruct in the art of teaching, and to report to the county board of education the names of all teachers in the county who fail to attend regularly the sessions of the institute; to enforce the course of study, the use of state text-books, and of high school text-books regularly adopted by proper authority, and the rules and regulations for the examination of teachers prescribed by the proper authority.

Temporary certificates. Seventh—When he finds that the service makes it necessary and desirable, to issue temporary certificates as follows:

(a) A temporary kindergarten certificate to the holder of a valid kindergarten certificate issued by a county board of education of California, or to the holder of a credential issued by a school authorized by the state board of education to recommend teachers for kindergarten certificates in the state of California.

(b) A temporary elementary school certificate to the holder of a valid county certificate issued by a county board of education of California, or to the holder of a diploma issued by a California state normal school or other state normal school accredited by the state board of education.

(c) A temporary secondary school certificate to the holder of a valid county certificate of secondary grade granted by a county board of education of California, or to the holder of a valid credential of secondary grade issued by a university authorized by the state board of education to recommend candidates for the high school certificate in California or to the holder of a state board high school credential.

(d) A temporary special certificate of elementary grade or of secondary grade to the holder of a special certificate of like grade issued by a county board of education in California, or to the holder of a recommendation of like grade in special subjects issued by an institution authorized by the state board of education to recommend persons for special certificates in the state of California, or to the holder of a credential of like grade in special subjects issued by the state board of education of California; provided, that a temporary special certificate may be issued only in such subjects as are listed in the certificate, recommendation, or credential upon which it is granted.

A temporary certificate issued between July first and December first shall expire on the January first following, and a temporary certificate when issued between December first and June twenty-ninth shall expire on the July first following; provided, that no person shall be entitled to receive a temporary certificate more than once in the same county.

Preliminary certificates. Eighth—To issue to persons in training for the teaching service "preliminary certificates" of a temporary character as follows:

(a) Upon a recommendation signed by the president, principal or director of a California school authorized by the state board of education to train teachers for kindergarten teaching, a preliminary certificate of kindergarten grade which shall authorize the holder thereof to do cadet-teaching without salary in any kindergarten school of the county.

(b) To a person holding a recommendation from a California state normal school a preliminary certificate of elementary grade which shall authorize the holder thereof to do cadet-teaching without salary in any subject in any elementary school of the county.

(c) To the holder of a recommendation from a university in this state authorized by the state board of education to issue recommendations for high school certificates, a preliminary certificate of secondary grade which shall authorize the holder thereof to do cadet-teaching without salary in any elementary or secondary school of the county.

(d) To the holder of a recommendation from a California institution authorized by the state board of education to issue credentials for teachers of special subjects, or to the holder of a recommendation from the secretary of the state board of education, under regulations prescribed by said board, a preliminary special certificate of elementary or secondary grade as specified in said recommendation. Said preliminary special certificate shall authorize the holder thereof to do cadet-teaching without salary in the special subjects listed in the recommendation upon which the preliminary certificate has been granted, in any school of like grade in the county.

No such preliminary certificate shall be granted for a period exceeding two years, nor shall the superintendent of schools collect a fee therefor.

Distribute laws, etc. Ninth—To distribute all laws, reports, circulars, instructions, and blanks which he may receive for the use of school officers.

Reports of superintendents. Tenth—To keep in his office the reports of the superintendent of public instruction.

Record of acts. Eleventh—To keep a record of his official acts and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants examined, which shall be open to the inspection of any applicant or his authorized agent.

Approval of plans for schoolhouses. Twelfth—Except in incorporated cities having boards of education, to pass upon and approve or reject all plans for schoolhouses. To enable him to do so, all boards of trustees, before adopting any plans for school buildings, must submit the same to the county superintendent for his approval.

Appoint trustees. Thirteenth—To appoint trustees to fill all vacancies in elementary school districts as provided in section one thousand five hundred ninety-three of the Political Code or as may be otherwise provided by law; to appoint trustees to fill all vacancies in high school

districts as provided in section one thousand seven hundred thirty-one of the Political Code or as may be otherwise provided by law; to appoint trustees in new elementary school districts to hold office until the first day of May next succeeding their appointment. In case of the failure of the board of school trustees to appoint a clerk of the district on the proper date or in case of a vacancy in the position of clerk of the district, the superintendent shall appoint a member of the board of school trustees clerk of the district. In case of the failure of the trustees to employ a janitor, as provided in section one thousand six hundred seventeen, subdivision seventh, of this code, he shall appoint a janitor, who shall be paid out of the school fund of the district. Should the board of school trustees of any district fail or refuse to issue an order for the compensation of such service, the superintendent is hereby authorized to issue, without such order, his requisition upon the county school fund apportioned to such district.

Reports. Fourteenth—To make reports, when directed by the superintendent of public instruction, showing such matters relating to the public schools in his county as may be required of him.

Preserve reports. Fifteenth—To preserve carefully all reports of school officers and teachers, and, at the close of his official term, deliver to his successor all records, books, documents, and papers belonging to the office, taking a receipt for the same, which will be filed in the office of the county clerk.

Grade schools. Sixteenth—The county superintendent shall, unless otherwise provided by law, in the month of July of each year grade each school, and a record thereof shall be made in a book to be kept by the county superintendent in his office for this purpose. And no teacher holding a certificate below the grade of said school shall be employed to teach the same.

Contract for Indian children. Seventeenth—On the recommendation of the county superintendent of schools, boards of school trustees and city boards of education are hereby empowered to enter into contract with the national government to receive money from said national government for the Indian children in attendance in the schools under the jurisdiction of said boards, in addition to any money that may be appropriated for such schools by the state and the county. Any money received on such contract shall be transmitted to the county superintendent of schools to be by him paid into the county treasury to the credit of the special school fund of such school district. On the receipt of such money the superintendent shall notify the clerk of the board of school trustees of the receipt of the money. [Amendment approved May 29, 1917; Stats. 1917, p. 1289.]

§ 1543b. Jurisdiction of county superintendents over joint districts. Whenever any school district is situated partly within two or more counties, jurisdiction over such district is hereby conferred upon the county superintendent of schools of the county where the greater number of school children of such district reside, but jurisdiction now or hereafter exercised over any such district under any law of this state shall not be changed to the superintendent of another county by reason

of this section or by reason of any change in the number of school children residing in the district unless a majority of the electors of the district vote in favor of such change at an election called for such purpose by the board of trustees of the district. When a new district is formed the board of supervisors of each county in which any part of the district is situated shall designate, in the order creating the district, the county superintendent which shall have jurisdiction thereover, and such determination shall be final until changed by vote of the electors of the district as hereinbefore provided. [New section added May 18, 1917; Stats. 1917, p. 712.]

§ 1551. **County superintendent's annual report.** Every school superintendent in this state must, on or before the first day of August in each year, report to the superintendent of public instruction, and to the board of supervisors of his county, the average daily attendance in the day and evening elementary schools and the special day and evening elementary school classes, the average daily attendance in the day and evening high schools and the special day and evening high school classes and the average daily attendance of pupils upon part-time vocational courses maintained by high school districts for persons engaged three or more hours each in academic and in educative occupational work, as provided for in section one thousand seven hundred fifty *c* of this code, as appears by the teachers' reports on file in his office for the school year immediately preceding. It shall be the duty of every county superintendent to inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the board of supervisors, and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting or incorrectly described, he shall report such fact to the board of supervisors, and the board of supervisors shall immediately take such steps as are necessary to change, harmonize and clearly define them. The county superintendent, if he deem it necessary, may order the description of the district boundaries printed in pamphlet form, and pay for the same out of the unapportioned county school fund of the county. [Amendment approved May 31, 1917; Stats. 1917, p. 1384.]

§ 1576. **Each city separate school district. Annexation of territory. Deemed part of city for election purposes.** Every city or incorporated town, except cities and towns of the sixth class, unless subdivided by the legislative authority thereof, shall constitute a separate school district which shall be governed by the board of education or board of school trustees of such city or incorporated town; provided, however, that in no instance shall the territory within an incorporated city of the sixth class be in more than one school district; and provided, further, that whenever a city or town shall be incorporated, except a city or town of the sixth class, the board of supervisors of the county may annex thereto, for school purposes only, the remainder, or any part of the remainder, of the district or districts from which such city or incorporated town was organized, whenever a majority of the heads of families residing therein, shall petition for such annexation; and provided, further, that the board of supervisors may include more territory

than the remainder of the district or districts from which the city or incorporated town was organized, whenever a petition for such purpose is presented to them, signed by a majority of the heads of families residing in such additional territory. When said remainder or part thereof, or said additional outside territory, has been annexed to said city or incorporated town, it shall be deemed a part of said city or incorporated town for the purpose of holding the general municipal election, and shall form one or more election precincts, as may be determined by the legislative authority of said city or incorporated town, the qualified electors of which shall vote only for the board of education, or the board of school trustees; and such outside territory shall be deemed to be a part of said city or incorporated town for all matters connected with the school department thereof, for the annual levying and collecting of the property tax for the school fund of said city or incorporated town; and for all purposes specified in sections one thousand eight hundred eighty to one thousand eight hundred eighty-eight of this code, inclusive; provided, however, that the last assessment-roll made by the county assessor shall be the only basis of taxation for such school district on the property outside the corporate limits so annexed for school purposes. [Amendment approved April 26, 1917; Stats. 1917, p. 208.]

§ 1578. **Duty of superintendent on receipt of petition.** When a petition is presented under the foregoing section to the county superintendent of schools he shall examine the same and if he finds the same sufficient and signed as required by the section he shall set the same for hearing by the board of supervisors of his county at a regular meeting thereof and forthwith file the same with said board accompanied by his recommendations and a notice containing a general statement of the purpose of the petition and of the boundaries of the proposed new district, or the change of boundaries, as the case may be, and the time and place when and where the petition will be heard. At least ten days prior to said date of hearing he shall send by registered mail a copy of such notice to each of the trustees of each school district which may be affected by the proposed change, if any, and shall post for the same period copies thereof in at least three public places in the territory proposed to be included in the new district and in at least three public places in each of the districts affected thereby, if any, one of which shall be posted at the door of a schoolhouse, if any, of each of such districts. He shall attach to said original notice and submit therewith to said board of supervisors his affidavit of mailing and posting of said copies. Upon the filing with it of such petition, recommendations, notice and affidavit as herein required, the board of supervisors shall have jurisdiction to hear and determine said petition. [Amendment approved May 14, 1917; Stats. 1917, p. 568.]

§ 1579. **Duty of board of supervisors.** The board of supervisors must, at the time and place fixed in the notice mentioned in the preceding section, hear all persons interested in the petition and may continue the hearing thereof from time to time but for not more than two weeks in all. If it approves the petition it must, by an order entered upon its minutes, establish the district and define its boundaries, or order the

change of boundaries, as the case may be, but no territory not included in the petition shall be included in any district until a notice and hearing has been given as required by the preceding section. A copy of such order, certified by the clerk of such board, shall be recorded in the office of the county recorder of each county in which any such new district is situated, or in each county where the district whose boundaries are changed is situated, and such order shall, after the expiration of one year from the date of the recording thereof, be conclusive evidence that such district has been legally organized, or the boundaries legally changed, as the case may be. After the expiration of such time no suit shall be maintained which calls in question the validity of such organization or change of boundaries. [Amendment approved May 14, 1917; Stats. 1917, p. 568.]

§ 1582. **Suspension of school district. District declared lapsed.** (a) If in any school district there has been an average daily attendance of only five or a number of pupils less than five during the whole school year, the superintendent shall, after giving due notice to all parties interested by sending notices by registered mail to each of the trustees, or, by causing notices to be posted in three public places in the district, one of which shall be at the door of the schoolhouse, for not less than ten days, report the fact to the board of supervisors at their first meeting in August. The board of supervisors shall investigate the matter, and, if in its judgment it would be better to temporarily suspend the school district they shall immediately so suspend it. If the board of supervisors find that there are other school facilities or that there is no reasonable chance to re-establish the district they shall declare the district lapsed, and shall attach the territory thereof to one or more of the adjoining districts in such manner as may be by them considered most convenient for the residents of said lapsed district.

(b) **Suspended school district re-established.** At the meeting of the board of supervisors in the months of July, August or September, the board of supervisors may re-establish a suspended school district upon proper showing of the people or board of school trustees of the district that there are eight or more pupils of the district ready to attend school.

(c) **Apportionment for suspended district.** After a district has been suspended, the county superintendent shall at the time of making the apportionment of school moneys as provided in section one thousand eight hundred fifty-eight of the Political Code, set aside for such suspended district, the sum of five hundred fifty dollars. This amount, with any unexpended balance to the credit of the district, shall be held for the use of the suspended district, in case it should be re-established, and so much of it as may be needed to keep the property of the suspended district insured may be expended by the trustees in the same manner as if the district were not suspended. But no subsequent apportionment shall be made to a suspended district, until it is re-established as provided in subdivision three of this section.

(d) **Trustees.** Trustees shall be elected or appointed in suspended districts just as if they were not suspended.

(e) **Notice that district lapsed.** The superintendent may at any time in the month of July of any year give notice as provided in subdivision

two of this section, to any suspended district which has not maintained school during the year past, and at the first meeting of the board of supervisors in August ask that such district be declared lapsed.

(f) **Suspended district merged with adjoining district.** A suspended district may be merged with one or more adjoining districts whenever a petition signed by the majority of heads of families residing in each of said districts shall be presented to the board of supervisors. Such petition must be filed with the county superintendent and by him presented to the board of supervisors with such suggestions as he thinks best.

(g) **Disposition of property of lapsed district.** When any district has been declared lapsed, the board of supervisors shall sell or otherwise dispose of the property thereto belonging, and shall place the proceeds of such sale to the credit of the district. Thereupon the superintendent shall determine all outstanding indebtedness of said lapsed district, and shall draw his requisition upon the county auditor in payment thereof. Any balance of moneys remaining to the credit of said lapsed district after all indebtedness has been paid shall be transferred by the superintendent to the credit of the district into which the said lapsed district has been merged. If the lapsed district has been attached to more than one of the adjoining districts, the superintendent must apportion the moneys remaining to the credit of the lapsed district to the several districts pro rata according to the average daily attendance in the respective districts as shown by the teachers' reports for the preceding school year. Should there not be sufficient funds to the credit of the lapsed district to liquidate all of the outstanding indebtedness thereof, the superintendent shall draw his requisition upon the county auditor pro rata for the several claims. [New section added May 29, 1917; Stats. 1917, p. 1287.]

§ 1593. **Election of school trustees.** First—An election for school trustees must be held in each school district on the last Friday of March of each year, at the district schoolhouse, if there is one, and if there is none, at the place to be designated by the board of trustees.

Number. Second—The number of school trustees for any school district, except where city boards are otherwise authorized by law, shall be three. No persons shall be deemed ineligible to the office of trustee on account of sex.

Trustees in new districts. Third—In new school districts the school trustees shall be elected on the last Friday of March subsequent to the formation of the district, to hold office for one, two and three years, respectively, from the first day of May next succeeding their election.

Vacancies. Fourth—When a vacancy occurs from any of the causes specified in section nine hundred ninety-six of this code, the county superintendent of schools shall appoint a suitable person to fill such vacancy to hold office for the remainder of the unexpired term.

One trustee elected annually. Fifth—Except as provided in subdivisions two and three of this section, one trustee shall be elected annually, to hold office for three years from the first day of May next suc-

ceeding his election, or until his successor shall be elected, or appointed, and qualified. [Amendment approved May 18, 1917; Stats. 1917, p. 734.]

§ 1599. **Form of ballots for election of school trustees. Manner of voting. Secret ballot.** Each county superintendent of schools shall furnish uniform ballots for the election of school trustees in his county, and no other form of ballot shall be used. The expense of printing and distributing such ballots to the various districts shall be paid as other current expenses of his office. The form of said ballots shall be as follows:

Official ballot provided by the office of the superintendent of schools to be used in the election of school trustees in —— district, in the county of ——.

Immediately following the above there shall be at least twelve spaces for the insertion of the names of candidates, each space with a blank square for the expression of the will of the voter.

The name of the county shall be printed in as a part of the official ballot.

The school trustees must provide for printing, stamping or writing into this ballot the designation of the district and the name of each candidate for office who has officially announced himself five days prior to the date of the election by filing or having filed with the clerk of the board of trustees a written statement signed by him that he is a candidate for the office of trustee.

In casting his vote the elector must stamp or write a cross in the square space immediately following the name of the candidate for whom he desires to vote, or, should the elector desire to vote for a candidate whose name does not appear on the ballot, he shall himself write the name of said candidate in the space provided for that purpose on the ballot. Where the elector writes the name of a candidate on the ballot he may, but it shall not be necessary for him to, designate his vote by writing or stamping the cross after such name. After properly marking his ballot he shall hand it to the inspector who shall then, in his presence, deposit the same in the ballot-box and the judges shall enter the elector's name on the poll list.

The board of school trustees may arrange for secret ballot by providing a booth or private room in which the voter may prepare his ballot, and in districts employing two or more teachers they must arrange for such secret ballot in the manner prescribed above.

No electioneering shall be carried on within one hundred feet of the polls. [Amendment approved March 21, 1917; Stats. 1917, p. 15.]

§ 1603. **Board of school trustees.** Except when otherwise authorized by law, every school district shall be under the control of a board of school trustees, consisting of three members. [New section added May 18, 1917; Stats. 1917, p. 735.]

§ 1603a. **Term.** The term of office of school trustees is three years from the first day of May next succeeding their election. [New section added May 18, 1917; Stats. 1917, p. 735.]

§ 1604. **When new district organized.** First—When a new district is organized, such of the trustees of the old district as reside within the boundaries of the new shall be trustees of the new district until the expiration of the time for which they were elected.

When joint districts formed. Term. Second—When joint districts are formed, three trustees shall be elected at the regular school election next succeeding the formation thereof, to hold office for one, two, and three years respectively from the first day of May next succeeding their election.

The terms of the trustees in the districts uniting to form the joint district shall expire on the formation of such district, and the superintendent of the county, in which lies the district having the greatest average daily attendance, shall appoint two trustees, and the superintendent of the county in which the other district lies shall appoint one trustee, to hold office until the first day of May next succeeding the formation of the joint district. [New section added May 18, 1917; Stats. 1917, p. 735.]

§ 1605. **Vacancies.** First—Vacancies in the office of school trustee are caused by the happening of any of the events specified in section nine hundred ninety-six of the Political Code, or by failure to elect, as provided in section one thousand five hundred ninety-three of this code.

Resignations. Second—When a school trustee resigns, his resignation must be sent in writing to the county superintendent of schools. [New section added May 18, 1917; Stats. 1917, p. 736.]

§ 1606. **City boards of education.** Boards of education are elected in cities under the provisions of the laws governing such cities, and their powers and duties are as prescribed in such laws, except as otherwise in this chapter provided. [New section added May 18, 1917; Stats. 1917, p. 736.]

§ 1607. **Powers.** Boards of school trustees and city boards of education shall have power, and it shall be their duty:

Prescribe rules. First—To prescribe and enforce rules not inconsistent with law, or with those prescribed by the state board of education, for their own government and for the government of the schools under their jurisdiction, and to transact their business at regular or special meetings called for such purpose. The board shall fix the time for its regular meetings, and such action shall be proper notice to all members of the board of such meetings, but for any special meetings, written notice must be given to each member of the board at least twenty-four hours prior to the time for the meeting, unless at the time of the meeting each and every member of the board waives such written notice.

Enforce course of study. Second—To enforce in schools the course of study and the use of text-books prescribed and adopted by the proper authority.

Exclude sectarian books. Third—To exclude from school and school libraries all books, publications, or papers of a sectarian, partisan or denominational character.

Annual report. Fourth—To make an annual report, on or before the first day of July, to the superintendent of schools in the manner and form and on the blanks prescribed by the superintendent of public instruction.

Report of text-books. Fifth—To make a report, whenever required, directly to the superintendent of public instruction of the text-books used in their schools.

Visit schools. Sixth—To visit each school in their district at least once in each term and to examine carefully into the management, conditions and needs of those schools, except in school districts which employ district or city superintendents of schools, and in those districts to visit such schools or provide that they shall be visited by the district or city superintendent of schools or his assistants. [New section added May 18, 1917; Stats. 1917, p. 736.]

§ 1608. **Powers of school trustees and city boards of education.** Boards of school trustees and city boards of education shall have power, and it shall be their duty:

Manage school property. First—To manage and to control school property within their districts, and to pay all moneys received by them or collected by them from any source whatever, and all moneys apportioned to them from taxes levied and collected under the authority of city councils for school purposes, into the county treasury to be placed to the credit of the proper fund of their districts.

Purchase school furniture. Second—Except as otherwise provided in this code, to purchase school furniture, including musical instruments, and apparatus, and such other articles as may be necessary for the use of schools; provided, that except in city school districts governed by boards of education, they shall purchase such books and apparatus only as have been adopted by the county board of education.

Insure, etc., school property. Third—To furnish, repair, and insure and in their discretion, rent, the school property of their respective districts, such insurance to be written in any solvent insurance company, doing business in this state, or in any mutual insurance company organized under the laws of this state.

Build schoolhouses. Fourth—When directed by a vote of their districts to build schoolhouses or to purchase or sell school lots.

Receive and make conveyances. Fifth—To receive in the name of the district conveyances for all property received and purchased by them, and to make in the name of the district conveyances on all property belonging to the district and sold by them. [New section added May 18, 1917; Stats. 1917, p. 737.]

§ 1609. **Powers of.** Boards of school trustees and city boards of education shall have power, and it shall be their duty:

Employ principal. City superintendent of schools. First—To employ a principal for each school under their control, and they may employ a district superintendent for one or more schools employing eight teachers

or more under their control. In each city school district governed by a city board of education, such board may employ a city superintendent of schools and such deputy or assistant city superintendents as it may deem necessary and fix and order paid their compensation unless the same be otherwise prescribed by law. Any deputy city superintendent of schools, or assistant city superintendent of schools, or district superintendent may be elected for a term of four years.

Employ teachers. Pay. For less than school year. Second—To employ the teachers, and immediately notify the county superintendent of schools in writing, of such employment, naming the grade of certificate held by the teacher employed; also to employ janitors and other employees of the school; to fix and order paid their compensation, unless the same be otherwise prescribed by law; provided, that no board shall enter into any contract with such employees to extend beyond the close of the next ensuing school year; except that teachers may be elected on or after June first for the next ensuing school year, and each teacher so elected shall be deemed re-elected from year to year thereafter unless the governing body of the school district shall on or before the tenth day of June give notice in writing to such teacher that his services will not be required for the ensuing school year. Such notice shall be deemed sufficient and complete when delivered in person to the teacher by the clerk or secretary of the governing body of the school district, or deposited in the United States mail with postage prepaid addressed to such teacher at his last known place of address; provided, that any teacher who shall fail to signify his acceptance within twenty days after notice of his election or employment has been given or mailed shall be deemed to have declined the same. Any board of trustees or city board of education may arrange to pay the teachers or principals so employed by them in ten or eleven or twelve equal payments instead of by the school month; provided, however, that where the board of trustees or city board of education arranges to pay the teachers or principals employed by them in twelve equal payments for the year, they shall begin such payments on the first day of the calendar month following the opening of schools for the current year in all cases where school is opened during the month of July, and in all cases where school is not opened during the month of July the board of trustees or city board of education may withhold such warrant or warrants which may have fallen due prior to the opening of school until the teachers or principals so employed by them shall have returned to the employment for which they were engaged by the board of school trustees or the city board of education and shall have resumed their respective duties, and then such payments shall be continued from month to month on the first day of each calendar month thereafter until said teachers have been paid the full amount due to them for that fiscal year; provided, that a teacher who serves less than a full school year is entitled to receive as salary only an amount that bears the same ratio to the established annual salary for such position as the time he teaches bears to the annual school term; provided, that whenever the first day of the month falls upon a holiday, payment of teachers' salaries shall be made on the following day.

Appoint district librarians. Third—To appoint and, in their discretion, pay district librarians, and enforce the rules prescribed for the government of district libraries.

Employ supervisors. Fourth—To employ in their discretion supervisors of subjects and to fix and order paid their compensation unless the same be otherwise prescribed by law. [New section added May 18, 1917; Stats. 1917, p. 737.]

§ 1610. Powers and duties of school and city boards of education. Board of school trustees and city boards of education shall have power, and it shall be their duty:

Suspend pupils. First—To suspend or expel pupils for misconduct, when other means of correction have failed to bring proper conduct.

Exclude children. Children under six admitted when. Second—To exclude from the schools children under six years of age, except as hereinafter provided; provided, that where the kindergarten is part of the day elementary schools, children may be admitted to the kindergarten classes at four and one-half years of age; and provided, further, that where any district has established a school for the instruction of the deaf, such children may be admitted to the deaf school at three years of age. In the enforcement of the provisions of this section children shall be admitted to the beginning classes of any school during the first month of the school year, or when the school year is divided into school terms, during the first month of each term, and children who will be six years of age before the end of the six months of the school year, or before the end of the third month of the school term, shall be admitted at the beginning of the school year, or the school term, and children who will not be six years of age by the end of the period specified shall not be admitted until the beginning of another school year or school term. Beginners shall in like manner be admitted to the beginning classes of the kindergarten during the first month of the school year, or of the school term, if the school year be divided into terms, if such children will be four and one-half years of age before the end of the sixth month of the school year and before the end of the third month of the school term, and children who will not be four and one-half years of age within the period specified shall not be admitted to the kindergarten classes until the beginning of another school year or term.

Register. Third—To cause the principal to keep a register open to the inspection of the public, of all children applying for admission and entitled to be admitted into the public schools, and to notify the parents or guardians of such children when vacancies occur, and receive such children into the schools in the order in which they are registered.

Permit children from other districts to attend. Fourth—To permit children from other districts to attend the schools of their district only upon the consent of the trustees of the district in which such children reside; provided, that should the trustees of the district in which children whose parents or guardians desire them to attend in other districts reside, refuse to grant their consent, the parents or guardians

of such children may appeal to the county superintendent and his decision shall be final.

Care to health. Fifth—To give diligent care to the health and physical development of pupils, and where sufficient funds are provided by district taxation, to employ properly certificated persons for such work.

Provide transportation. Sixth—To provide, with the written approval of the superintendent of schools, for the transportation of pupils to and from school whenever in their judgment such transportation is advisable, and good reasons exist therefor, to purchase or rent and provide for the upkeep, care, and operation of vehicles, or to contract and pay for the transportation of pupils to and from school by common carrier, or to contract with and pay responsible private parties for such transportation; provided, that in order to secure such service at the lowest possible figure consistent with proper and satisfactory service, boards of education and boards of school trustees shall secure bids for the items of service contemplated in this subdivision; and provided, further, that no board shall make any purchase or enter into any contract for such service without securing the written approval of the county superintendent of schools. [New section added May 18, 1917; Stats. 1917, p. 739.]

§ 1611. Meetings of electors. Notices. Organization. Powers of meeting. Litigation. Boards of trustees in school districts, not including districts having city boards of education, may, and upon a petition signed by a majority of the heads of families resident in the district, must call meetings of the qualified electors of the district for determining or changing the location of the schoolhouse, or for consultation in regard to any litigation in which the district may be engaged, or be likely to become engaged or in regard to any affairs in the district. Such meetings shall be called by posting three notices in public places, one of which shall be in a conspicuous place on the schoolhouse, for not less than ten days previous to the time for which the meeting shall be called, which notices shall specify the purposes for which said meetings shall be called; and no other business shall be transacted at such meetings. District meetings shall be organized by choosing a chairman from the electors present, and the district clerk shall be clerk of the meeting, and shall enter the minutes thereof on the records of the district. A meeting so called shall be competent to instruct the board of trustees:

1. In regard to the location or change of location of the schoolhouse or the use of the same for other than school purposes; provided, that in no case shall the schoolhouse be used for purposes which necessitate the removal of any school desks or other school furniture.

2. In regard to the sale and purchase of school sites.

3. In regard to prosecuting, settling or compromising any litigation in which the district may be engaged, or be likely to become engaged, and may vote money not exceeding one hundred dollars in any one year, for any of these purposes in addition to any amount which may be raised by the sale of district school property, and the insurance of property destroyed by fire; provided, that the proceeds of the insurance of the library and apparatus shall be paid into the library fund. All

funds raised by the sale of school property may be disposed of by direction of a district meeting. District meetings may be adjourned from time to time, as found necessary, and all votes instructing the board of trustees shall be taken by ballot, or by ayes and noes vote, as the meeting may determine. The board of trustees shall, in all cases, be bound by the instructions of the district meeting in regard to the subjects mentioned in this section; provided that the vote in favor of changing the location of the schoolhouse be two-thirds of all the electors voting at said meeting upon the proposition to change the location. [Amendment approved May 18, 1917; Stats. 1917, p. 740.]

§ 1612. **Contracts. Bids. Estimates.** Boards of school trustees and city boards of education shall have power and it shall be their duty to let all contracts involving an expenditure of more than two hundred dollars for work to be done or for material or supplies to be furnished, to the lowest responsible bidder who will give such security as the board may require, or else to reject all bids; provided, that continuing contracts for materials and supplies may be made with an accepted bidder for a period of one year; and provided, further, that the board may repair old buildings by day's labor. For the purpose of securing bids the board must publish a notice calling for bids, stating the work to be done or materials or supplies to be furnished, and the time when and the place where bids will be opened, at least once a week for two weeks in some newspaper of general circulation published in the county, or if there is no such paper, then in some newspaper of general circulation, circulated in such county; provided, that in school districts having an average daily attendance of one thousand or more pupils, as shown by the annual report of the county superintendent of schools for the preceding school year, the board may secure from responsible bidders at least three estimates of the cost of such work to be done, or materials or supplies to be furnished, such estimates to be secured from bona fide dealers or craftsmen engaged in the business or in handling the goods specified. Said estimates must be submitted in writing and must be filed with the clerk or secretary of the board, and if any of such estimates of cost is less than five hundred dollars, the board may let a contract for such work, material or supplies, to the lowest responsible bidder without publishing such notice calling for bids. [New section added May 18, 1917; Stats. 1917, p. 741.]

§ 1613. **Grant use of school buildings.** Boards of school trustees and city boards of education are hereby authorized to grant the use of school buildings or grounds for public, literary, scientific, recreational or educational meetings, or for the discussion of matters of general or public interest upon such terms and conditions as said board may deem proper; provided, however, that said use shall not be inconsistent with the use of said buildings or grounds for school purposes, nor interfere with the regular conduct of school work, nor be granted in such a manner as to constitute a monopoly for the benefit of any person or organization; and provided, further, that no privilege of using said buildings or grounds shall be granted for a period exceeding one year, such privilege being renewable and revocable in the discretion of the board at any time. [Amendment approved May 18, 1917; Stats. 1917, p. 741.]

§ 1614. Display of United States flag. Boards of school trustees in all school districts throughout the state and boards of education in all cities and cities and counties throughout the state shall provide for each schoolhouse under their control, a suitable flag of the United States, which shall be hoisted above each schoolhouse during all school sessions, weather permitting. It shall be the duty of boards of school trustees and boards of education to enforce this provision. It shall also be the duty of such boards of school trustees and boards of education to provide smaller and suitable United States flags to be displayed in each schoolroom at all times during the school sessions. It shall be the duty of such boards of trustees and boards of education to enforce this provision. [Amendment approved May 18, 1917; Stats. 1917, p. 742.]

§ 1615. "Home teachers." Duties. Qualifications. Boards of school trustees or city boards of education of any school district, may employ teachers to be known as "home teachers," not exceeding one such home teacher for every five hundred units of average daily attendance in the common schools of said district as shown by the report of the county superintendent of schools for the next preceding school year. It shall be the duty of the home teacher to work in the homes of the pupils, instructing children and adults in matters relating to school attendance and preparation therefor; also in sanitation, in the English language, in household duties such as purchase, preparation and use of food and of clothing and in the fundamental principles of the American system of government and the rights and duties of citizenship. The qualifications of such teachers shall be a regular kindergarten primary, elementary or secondary certificate to teach in the schools of California and special fitness to perform the duties of a home teacher; provided, that the salaries of such teachers shall be paid from the city or district special school funds. [Amendment approved May 18, 1917; Stats. 1917, p. 742.]

§ 1616. Kindergarten. Estimate for maintenance of kindergarten. Levy of tax. Discontinuance. Funds revert. Limit on tax rate. The board of education of every city, city and county, or the board of school trustees of every school district in this state, must, upon petition of the parents or guardians of twenty-five or more children between the ages of four and one-half and six years, residing within one mile of any elementary school building situate in such city, city and county, or school district, establish and maintain a kindergarten or kindergartens; provided, that the order of the board establishing such kindergarten or kindergartens shall be made only between the first day of June and the first day of August in any year; and provided, further, that after the first year in which any kindergarten or kindergartens shall have been established and maintained, that the number of kindergartens which shall be maintained in any city, or city and county, or school district, during any particular school year, shall be determined by the governing body of the schools of such city, city and county or school district.

The board of education of every city, city and county, or the board of school trustees of every school district in which a kindergarten is established under the provisions of this act, must at least fifteen days

before the first day of the month in which the board of supervisors is required by law to levy the taxes required for county purposes, submit to the county superintendent of schools an estimate of the amount of money which will be required for the maintenance of any kindergarten or kindergartens in their several school districts for the ensuing school year.

The county superintendent of schools shall thereupon examine said estimate and submit copies of the same, with his approval or disapproval indorsed thereon, to the board of supervisors and to the county auditor at the time he submits to them his estimate for the county school tax for the current year. If the county superintendent of schools approves such estimate, the board of supervisors shall, at the time and in the manner of levying other taxes, levy and cause to be collected in the several school districts for which estimates have been submitted and approved as herein provided, the amount so estimated and approved. The fund so levied shall be known as the kindergarten fund of —— school district, as the case may be, and shall be available for the maintenance of the kindergarten or kindergartens established under the provisions of this section, and the moneys drawn from such fund shall be paid out in the same manner as the moneys from state and county school funds for the maintenance of the elementary schools are drawn and paid out. If the average daily attendance in any kindergarten in any city, city and county, or school district, shall be ten or less for the school year, the governing body of such city, city and county, or school district, shall, at the close of such school year, discontinue such kindergarten. In case a city, city and county, or school district, maintains but one kindergarten, should such kindergarten be discontinued as provided by this section, the funds of such kindergarten shall immediately revert to the elementary schools of the city, city and county, or school district, in which said kindergarten has been located; and in case any city, city and county, or school district maintains two or more kindergartens the property and funds of a kindergarten which has been discontinued shall revert to the kindergarten or kindergartens which are still in operation in said city, city and county, or school district. The rate of taxation which may be levied for the support of kindergartens in any one year shall not exceed ten cents on the one hundred dollars of the taxable property of such city, city and county, or school district; and such tax for the support of the kindergarten or kindergartens, shall be in addition to any other tax which may be levied for the support of the public schools. [Amendment approved May 18, 1917; Stats. 1917, p. 742.]

§ 1617. **Intermediate school course.** The board of education of any city, or of any city and county, or the board of school trustees of any school district situated within a high school district maintaining an intermediate school course, shall permit pupils who have completed the sixth year of the elementary school to attend an intermediate school course established as provided by section one thousand seven hundred fifty *a*, of the Political Code, and shall pay to such high school district for the education of such pupils, a tuition charge which shall be agreed upon by said board of education, or board of school trustees, and the high school board maintaining such intermediate school course; provided, that

such board of education or board of school trustees shall not pay to any such high school board for educating a pupil, residing in such elementary school district and attending such intermediate school course, a tuition charge greater than the average net cost per pupil for educating pupils in the first six years of the elementary school in said elementary school district; and provided, further, that such tuition charge shall cease to be paid after the pupil has completed two years of work in such intermediate school course. [Amendment approved May 18, 1917; Stats. 1917, p. 742.]

§ 1617a. United States flag over schoolhouses. Also in schoolrooms. [Repealed May 18, 1917; Stats. 1917, p. 744.]

§ 1617b. Contract with state normal school for education of children. Revocation. The trustees of an elementary school district with an average daily attendance of thirty-five or less, as shown by the last teacher's report on file in the office of the county superintendent of schools, when authorized by a majority vote of their district at a district meeting called for that purpose, may contract with a state normal school for the education of the children of their district; provided:

1. That the elementary school so contracting shall be housed by the normal school on the normal school campus or in the schoolhouse in the district and shall be used as a rural model practice school.

2. That the trustees of the elementary school district shall contribute to the support of the school all of the money apportioned to their district from the state and county funds. Said funds to be handled and expended by the trustees of the elementary school district in the same manner as provided by law.

Such contract may be revoked by a majority vote of the board of trustees of the normal school or by the trustees of the elementary school district, when authorized to do so by a majority vote of their district at a special district meeting called for that purpose. Such contract shall be in effect from July first following date of contract and shall remain in effect until the end of the school year in which the contract is revoked. [New section added May 31, 1917; Stats. 1917, p. 1516.]

NOTE.—The old section 1617b, relating to home teachers and their qualifications, was repealed May 18, 1917; Stats. 1917, p. 744.

§ 1617c. Establishment of kindergartens. Discontinuance for small attendance. [Repealed May 18, 1917; Stats 1917, p. 744.]

§ 1617d. Pupils who may attend. Tuition. [Repealed May 18, 1917; Stats. 1917, p. 744.]

§ 1617½. Sale or leasing of school property. Conditions. Effect of act. Boards of education, or other governing boards, in cities and having jurisdiction over both the elementary and high school districts embracing such cities, in which the total number of units of average daily attendance in both such school districts, as shown by the annual report of the county superintendent of schools to the state superintendent of public instruction for the preceding school year, exceeds fifty-five thousand, are hereby authorized to sell, or lease for a term not exceeding ninety-

nine years, any real property belonging to their respective school districts, or high school districts upon which no public school is being maintained upon the following conditions:

Before ordering the sale or lease of any such property such board of education, or other governing boards, shall, in open meeting, by a two-thirds vote of all of its members, adopt a resolution declaring its intention to sell the same, or a resolution declaring its intention to lease the same, as the case may be, which said resolution shall describe the property proposed to be sold, or leased, in such manner as to identify it and shall specify the minimum price, or rental, and terms for which it will be sold, or leased, and fixing a time, not less than three weeks thereafter, and place for a public meeting of said board of education, or other governing board, at which sealed proposals to purchase or lease, as the case may be, will be received and considered. Said resolution shall, before the date of such meeting, be published once a week for three successive weeks in one or more newspapers of general circulation published in the district. At the time and place fixed in said resolution for the meeting of said board of education or other governing board, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by said board, or other governing board, and the property be sold, or leased, as the case may be, to the highest responsible bidder among those who have submitted sealed proposals and who offer to comply with all terms and conditions specified in the resolution of intention to sell or lease; provided, however, that if any responsible person shall at said meeting offer to purchase such property, or to lease such property, as the case may be, for a price or rental exceeding the highest other proposal or offer before the board by not less than five per cent, the property shall be sold, or shall be leased as the case may be, to such person; and provided, further, that said board or other governing board may, should it deem such action for the best public interest, at any time, reject any or all bids, and withdraw such property from sale. Any order of sale or lease made hereunder by said board, or other governing board, shall authorize and direct the execution and delivery by the chairman, or other presiding officer, of said board, or other governing board, of the deed or lease of said district to the purchaser or lessee. This section shall not be taken to authorize action upon proposals for sale and proposals for lease at the same meeting.

The provisions of this section shall be deemed to supersede any other provision of law relating to powers and duties of boards of trustees, and boards of education, only in so far as its terms are in conflict therewith, and shall not be deemed as repealing any such other provision of law not conflicting with the terms of this section. [New section added June 1, 1917; Stats. 1917, p. 1645.]

§ 1619. **Equal rights and privileges. Vacation schools. Qualifications of teachers.** First—Except where a school has been closed by order of a city or a county board of health or of the state board of health, on account of contagious disease, or where such school has been closed on account of fire, flood or other public disaster, boards of school trustees and city boards of education must maintain all of the elementary day schools established by them for an equal length of time during the year, and all of the day high schools established by them for an equal length

of time during the year, and, as far as possible, with equal rights and privileges; provided, that boards of school trustees and city boards of education may establish and maintain vacation schools of kindergarten, elementary, or high school grade. No vacation school shall be established until a school of equal grade has been maintained for at least eight months. The duties of teachers, courses of study, length of school day, and all other matter relating to vacation schools, shall be determined by the boards of school trustees, or by the city board of education. Only teachers who are legally qualified to teach in the public schools of the state shall be eligible to teach in vacation schools of corresponding grade; provided, that the attendance of pupils upon such schools shall not be counted as a part of the average daily attendance of the regular elementary or secondary schools of the district, nor shall the state or county school funds be used to maintain such schools.

When school maintained in different portions of district. Second—When in any district it is necessary for the convenience of the residents of said district that the school therein should be maintained a part of the year in one portion of the district, and a part of the year in another portion of the district, the aggregate of the time the school has been maintained in the different portions of the district shall be considered in estimating the time for which a school has been maintained in the district during the school year. [Amendment approved May 18, 1917; Stats. 1917, p. 688.]

§ 1662. **Courses of study.** First—The courses of study for the day elementary schools of California shall embrace eight years of instruction; and such courses must allot eight years for instruction in subjects required to be taught in such schools and may allot not more than two years for kindergarten instruction.

Ages for admission. Second—The day elementary schools of each school district of California shall be open for the admission of all children between six and twenty-one years of age residing in the district, and may be open for the admission of adults if the governing body of the district deem such admission advisable; provided, that where kindergarten instruction is given in the schools of a district, such school shall admit children to the kindergarten classes at four years of age; and the reports for the kindergarten classes shall be kept and shall be made separate from other school reports; and provided, further, that wherever a school is established for the instruction of the deaf, such children may be admitted to such school at three years of age; provided, that the average daily attendance of deaf children who are six years of age or older shall be counted as part of the average daily attendance in the day and elementary schools.

Children excluded. Separate schools for Indians, etc. Third—The governing body of the school district shall have power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for Indian children and for children of Chinese or Mongolian descent. When such separate schools are established, Indian, Mongolian or Chinese children must not be admitted into any other school.

Special day and evening classes. Fourth—The governing body of any elementary school district shall have power to establish and maintain, in connection with any school under its jurisdiction, special day and evening classes for the purpose of giving instruction in any of the branches of study mentioned in section one thousand six hundred sixty-five of this code. These classes may be convened at such hours and for such length of time during the school day or evening, and at such period and for such length of time during the school year as may be determined by such governing authority; and the enrollment of and attendance upon such classes shall be kept separately and the units of average daily attendance shall be determined as provided in section one thousand eight hundred fifty-eight of this code and shall be added to the attendance of the elementary school district.

Ages for admission. Fifth—The evening elementary schools and the special day and evening classes of the elementary schools of any school district shall be open for the admission of all children over the age of fifteen years, residing in the district and for the admission of adults; provided, that children under fifteen years of age who have been given permits to work in accordance with the provisions of an act to enforce the educational rights of the children may be admitted to the evening elementary schools. [Amendment approved May 18, 1917; Stats. 1917, p. 667.]

§ 1663. **Classification of public schools.** 1. The public schools of California, other than those supported exclusively by the state, shall be classed as day and evening elementary, and day and evening secondary schools. The day and evening elementary schools of California shall be designated as primary and grammar schools. The day and evening secondary schools of California shall be designated as high schools and technical schools, and either class may include a portion of the other class [Amendment approved May 29, 1917; Stats. 1917, p. 1315.]

§ 1665. **Branches to be taught in grades. Time given.** First—Instructions must be given in the following branches in the several grades in which they may be required, viz.: reading, writing, spelling, arithmetic, geography, language and grammar, with special reference to composition, history of the United States with special reference to the history of the constitution of the United States and the history of the reasons for the adoption of each of its provisions, the duties of citizenship, together with instruction in local civil government; elements of physiology and hygiene, with special reference to the injurious effects of tobacco, alcohol and narcotics on the human system; morals and manners. In the first six grades of the elementary schools, at least two-thirds of the pupil's time during each week shall be devoted to study and recitation of the subjects hereinbefore enumerated, and in the seventh and eighth grades at least twelve and one-half hours of the pupil's time each week shall be devoted to the study and recitation of such subjects.

Subjects for remaining time. Manual training, etc. Second—From the time remaining after the study and recitations of the studies hereinbefore enumerated, at least twenty minutes of each school day must be devoted by all pupils over the age of eight years to such physical

training as shall be most conducive to their proper physical development, and instruction must be given in nature study with special reference to agriculture and animal and bird life, music, drawing, elementary bookkeeping, humane education. Manual training, household economics, and other vocational subjects may be taught in any elementary school of the state; provided, that in school districts employing six or more elementary school teachers in any one school, whether housed in one or more buildings, manual training and household economics must be taught. The state board of education may, in its discretion, adopt text-books in any of the subjects listed in this subdivision. [Amendment approved May 18, 1917; Stats. 1917, p. 728.]

§ 1670. **School year.** The school year begins on the first day of July and ends on the last day of June. A school month is construed and taken to be twenty days or four weeks of five days each, including legal holidays. [New section added May 18, 1917; Stats. 1917, p. 708.]

§ 1673. **Duration of daily sessions.** No pupil other than one pursuing a vocational course must be kept in school more than six hours per day; and no pupil under eight years of age must be kept in school more than four hours per day. Any violation of the provisions of this section must be treated in the same manner as a violation of the provisions of the preceding section. [Amendment approved May 19, 1917; Stats. 1917, p. 689.]

§ 1696. **Duties of teachers.** Every teacher in the public school must:

File certificate. First—Before assuming charge of a school, file his or her certificate with the superintendent of schools; provided, that when any teacher so employed is the holder of a California state normal school diploma, accompanied by the certificate of the state board of education, as provided in subdivision third of section one thousand five hundred three of the Political Code, an educational or a life diploma of California, upon presentation thereof to the superintendent he shall record the name of said holder in a book provided for that purpose in his office, and the holder of said diploma shall thereupon be absolved from the provisions of this subdivision.

Notify superintendent of opening and closing day of school. Second—Before taking charge of a school, and one week before closing a term of school, notify the county superintendent of such fact, naming the day of opening or closing. Boards of education and boards of school trustees must in every case give to the teacher a notice of at least two weeks of their intention to close the term of school under their charge. No superintendent shall draw any requisition for the last month's salary of any teacher until said teacher has filed with him the notice required by this subdivision.

Enforce course of study. Third—Enforce the course of study, the use of the legally authorized text-books, and the rules and regulations prescribed for schools.

Hold pupils to account for conduct. Fourth—Hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess; suspend, for good cause, any pupil from the

school, and report such suspension to the board of school trustees or city board of education for review. If such action is not sustained by them, the teacher may appeal to the county superintendent whose decision shall be final.

Keep register. Fifth—Keep a state school register, in which shall be left, at the close of the term, a report showing program of recitations, classification and grading of all pupils who have attended school at any time during the school year. The superintendent shall in no case draw a requisition in favor of the teacher until the teacher has filed with him a certificate from the clerk of the board of school trustees to the effect that the provisions of this subdivision have been complied with.

Make annual report. Sixth—Make an annual report to the county superintendent at the time and in the manner and on the blanks prescribed by the superintendent of public instruction. Any teacher who shall end any school term before the close of the school year, shall make a report to the county superintendent immediately after the close of such term; and any teacher who may be teaching any school at the end of the school year shall, in his or her annual report, include all statistics for the entire school year, notwithstanding any previous report for a part of the year. Said teacher shall attach to the annual report a certificate showing the number of children attending said school who reside in other districts within the county, together with the names, residence by district and the average daily attendance of said children. The principal of a school of more than one teacher shall combine the separate certificates from the teachers in the school of which he is principal and shall make a certificate to the county superintendent showing the facts set forth in the separate certificates of the teachers. On receiving the certificates mentioned above from any school district under his jurisdiction, the county superintendent shall deduct the average daily attendance of such children, from the total average daily attendance of the district in which they have attended school, and add it to the total average daily attendance of the district or districts in which said children reside; provided, that whenever the consent of the trustees of the district in which such children reside is obtained, as provided elsewhere in this code, the attendance shall be counted in the district in which the pupils attend school unless there shall be filed with the county superintendent of schools on or before the first day of June of the year in which the attendance is to be counted, a written demand of the trustees of the district in which such children reside for the counting of such attendance in the home district, and then only when such demand is approved by the superintendent of schools. The superintendent of schools shall in no case draw a requisition for the salary of any teacher for the last month of the school term, until the report required by this subdivision has been filed, and by him approved.

Make other reports. Seventh—Make such other reports as may be required by the superintendent of public instruction, county superintendent, board of school trustees, or city board of education. [Amendment approved May 31, 1917; Stats. 1917, p. 1376.]

§ 1696b. Order for text-books by teacher. Upon closing a term of school, each teacher or principal shall prepare, upon requisition blanks furnished by the superintendent of public instruction, an order for the number of state text-books estimated to be required for use in the school under his charge at the opening of the ensuing term. Such order shall be a part of the annual report required by subdivision six of section one thousand six hundred ninety-six of the Political Code. The superintendent of schools shall in no case draw a requisition for the salary of any teacher for the last month of the school term until the order required by this section has been filed and by him approved. Orders for additional books may be forwarded at any time on the approval of the county superintendent of schools.

In ordering free text-books, any teacher may order one copy of any series of books for use on the teacher's desk, if not supplied with such book, which copy shall be sent by the superintendent of public instruction free of cost with other school books. [New section added May 18, 1917; Stats. 1917, p. 707.]

§ 1697. School month defined. [Repealed May 18, 1917; Stats. 1917, p. 708.]

§ 1720. Designation of secondary schools. The secondary schools of the state shall be designated as high schools, technical schools, and junior colleges. High schools may be established and high school districts formed and organized in accordance with the provisions of this article. Whenever any high school district is so formed and organized the governing body thereof shall establish and maintain one or more high schools, technical schools, or junior colleges therein. [Amendment approved May 14, 1917; Stats. 1917, p. 463.]

§ 1723. Jurisdiction over high school districts. [Repealed May 18, 1917; Stats. 1917, p. 713.]

§ 1728. Formation of joint union high school districts. Whenever a majority of the registered electors, residing in each of two or more contiguous school districts, having in the aggregate at least one hundred pupils in average daily attendance in the elementary schools of such districts, shall unite in a petition to the superintendent of schools of the county who would have jurisdiction over the joint high school district proposed to be formed, which petition shall pray for the formation of a joint union high school district, under a name specified therein, such superintendent shall, within twenty days after receipt of such petition, verify the signatures thereto, and, if he finds it sufficient, the same proceedings shall be had on such petition, as are directed in section one thousand seven hundred twenty-seven, except that the county superintendent of schools shall file his certificate of the result of the election with the county clerk of each county in which any part of the joint union high school district is situated. If it appears from such certificate that a majority of the votes cast at such election were cast in favor of the formation of such district, such joint union high school district shall be deemed to be formed from the time of the filing thereof. The county clerk shall record the certificate in full in his

record of high school districts. [Amendment approved May 18, 1917; Stats. 1917, p. 712.]

§ 1743. High school principal may act in elementary school. Annual report of number of pupils, etc. Annual report on text-books, etc. Salary withheld until report filed. Nothing in this article shall be construed so as to prevent the principal of any high school from acting as principal of the elementary school of the school district in which the high school is located, or as supervising principal of one or more elementary school districts included in the high school district, if so desired by the trustees of said school district or districts and the high school board; provided, that no high school principal shall supervise the elementary schools of any district except the district in which the high school building is located without the approval of the county superintendent of schools.

The principal of every high school shall annually, at the close of the term and prior to receiving his last month's salary and as a prerequsite for such salary, make out under oath and deliver to the superintendent of schools of each county in which any part of his high school district is situated, a full and complete report of said high school for the entire term or school year. Such report shall show the total number of pupils enrolled during the year, the average daily attendance, the number of teachers regularly employed, the total number of new pupils enrolled during the year, the names of all pupils residing in elementary school districts not embraced in any high school district, and attending such high school, such names being segregated according to the districts in which such pupils reside, and such other information as may be required by the superintendent of public instruction or the county superintendent of schools.

The said report shall be made upon blanks furnished by said superintendent of public instruction, as other school report blanks are furnished, and in the case of a joint union high school district the statistics of attendance and other data for each county separately shall be given in said report.

The principal of every high school, shall, annually, during the month of October, make out under oath and deliver to the state board of education, and to the county superintendent of schools, a full and complete report of text-books then in use in such high school, the courses of study offered, the requirements for graduation, the names of teachers employed, the subject taught by each teacher, the grade of certificate held by each, and the salary paid to each, and such other information as may be required by the state board of education.

If such report is not filed with the state board of education, on or before October thirty-first, the state board of education shall notify the county superintendent of schools having jurisdiction of the high school failing to report, and it shall thereupon be the duty of such county superintendent of schools to withhold the salary of the principal of such high school until he has been notified by the state board of education that such report has been filed as required by this section. [Amendment approved May 29, 1917; Stats. 1917, p. 1327.]

§ 1743a. Report of high school principal. Salary withheld if report not filed. [Repealed May 29, 1917; Stats. 1917, p. 1327.]

§ 1750a. Intermediate school courses. Election. Ballots. Daily attendance. Lapsing of course. Estimated expenses. The high school board of any high school district or the trustees of any county high school, may prescribe intermediate school courses, and admit thereto pupils who have completed the sixth year of the elementary school; provided, that no intermediate school course shall be prescribed in any county, union or joint union high school district, unless a majority of the trustees of the elementary school districts comprising such high school district shall approve the organization of such course in writing, and shall file a statement of such approval with the high school board, or unless, at an election called for that purpose in the same manner as the election for the formation of the high school district, a majority of the qualified electors voting thereat shall vote in favor of such intermediate school course. The ballots used at such election shall contain the words "Intermediate school course—Yes" and "Intermediate school course—No." The result of said election shall be determined and certified to the superintendent of schools as provided in case of the election for the formation of the district. The first two years of such intermediate school course shall include instruction in the school studies generally taught in the seventh and eighth grades of the elementary school, and may include such other studies, including secondary, vocational and industrial subjects, as said high school board may prescribe. The average daily attendance of all pupils from each district, enrolled in the first two years of such intermediate school course, shall be kept separate and shall be credited to the common school district in which the various pupils reside; provided, that when any intermediate school course is first established under the provisions of this section, the course of study therefor shall be adopted between the first day of July and the date of the opening of school for the current school year.

Whenever the average daily attendance of pupils enrolled in the first two years of the intermediate school course of a district is less than twenty-five for any school year, such intermediate school course shall be deemed to have lapsed.

The high school board of any high school district maintaining an intermediate school course, may include in the annual estimate of expenses of such high school district filed with the county superintendent of schools in accordance with the provisions of this code, the estimated expenses for maintaining such intermediate school course. [Amendment approved May 29, 1917; Stats. 1917, p. 1328.]

§ 1750b. Junior college courses. Regulations. Requirements for graduation. Courses of study. Attendance included in average daily attendance of district. Included in estimate for apportioning fund. Approval of courses by state board of education. The high school board of any high school district having an assessed valuation of three million dollars or more, may prescribe junior college courses of study, including not more than two years of work, and admit thereto the graduates of such high school, the graduates of other high schools and such other candidates for admission who are at least twenty-one years of age, and are recom-

mended for admission by the principal of the high school maintaining such junior college courses. Junior college courses of study may include such studies as are required for the junior certificate at the University of California, and such other courses of training in the mechanical and industrial arts, household economy, agriculture, civic education and commerce as the high school board may deem it advisable to establish.

The high school board shall adopt regulations governing the organization of such courses of study and shall prescribe requirements for graduation from such courses; provided, that the minimum requirement for graduation from junior college courses of study shall be at least sixty credit-hours of work. A credit-hour is hereby defined as approximately three hours of recitation, study and laboratory work per week carried through one-half year.

Courses of study organized under the provisions of this section may be offered in any or all day and evening high schools of the district, or in a separate junior college, as the high school board may determine.

The attendance of students enrolled in junior college courses of study shall be kept according to regulations prescribed by the state board of education, and the average daily attendance of such students shall be included in the annual report of the average daily attendance of the high school district required in section one thousand seven hundred forty-three of the Political Code. The superintendent of schools of each county, in making the annual estimate of county high school fund required, shall include in the basis of such estimate the average daily attendance of all students enrolled in junior college courses during the preceding school year. In apportioning the county high school fund, the superintendent of schools of the county shall count the average daily attendance of all students enrolled in junior college courses as a part of the average daily attendance of each high school district in which such students are enrolled.

The state controller, in making the annual estimate of the amount necessary for the support of high schools, as required in section one thousand seven hundred sixty of the Political Code, shall include in the basis of his estimate, the average daily attendance of all students enrolled in junior college courses, and the superintendent of public instruction, in apportioning the state high school fund, shall count the average daily attendance of students enrolled in junior college courses as a part of the average daily attendance of each high school district in which such students are enrolled.

All courses of study prescribed in accordance with this section shall be subject to approval by the state board of education, and no state high school funds shall be apportioned to any high school district on account of the attendance of students enrolled in junior college courses, unless such courses have been approved by the state board of education. [New section added May 14, 1917; Stats. 1917, p. 464.]

§ 1750c. Special day and evening classes. Vocational courses. Transportation for teachers of agriculture. The high school board of any high school district subject to the provisions of section one thousand seven hundred fifty of this code, shall have power to establish and maintain, in connection with any day high school under its jurisdiction, special day and evening classes for the purpose of giving instruction in

any of the branches of study that may be taught in a high school. These classes may be convened at such hours and for such length of time during the school day or evening, and at such period and for such length of time during the school year as may be determined by said governing authority; and the enrollment of and attendance upon such classes shall be kept separately and the units of average daily attendance shall be determined as provided in section one thousand eight hundred fifty-eight of this code, and shall be added to the high school attendance of the district.

The high school board of any high school district subject to the provisions of section one thousand seven hundred fifty of this code shall have power to establish and maintain, in connection with any high school under its jurisdiction, part-time vocational courses in agricultural, commercial, industrial, trade or other vocational subjects. The enrollment of and attendance upon such courses shall be kept separately and the units of average daily attendance, determined as provided in section one thousand eight hundred fifty-eight of this code, shall be added to the high school attendance of the district; provided, that each pupil of a class pursuing such a part-time course in agriculture shall devote, under the direct supervision of a teacher holding a special certificate in agriculture or a vocational certificate in agriculture, at least three hours daily or an equivalent amount of time to farm mechanics and to farm project work conducted by him on a commercially productive basis, and at least three hours daily or an equivalent amount of time to academic work in school or in class, a part of which shall supplement the practical work; and provided, further, that each pupil of a class pursuing a part-time course in commerce, industry, trade, or other vocational subject shall devote, under the direct supervision of a competent teacher holding a vocational certificate in the special subject, at least three hours daily or an equivalent amount of time to educative practical work under employment and at least three hours daily or an equivalent amount of time in school or class to academic work, a part of which shall supplement the practical work. The high school board of any high school district maintaining a part-time agricultural course as provided above may, at its option and in such manner as it may deem advisable, furnish the necessary transportation for teachers of agriculture engaged in supervising the project work of the pupils and may pay any expense so incurred from the county or district high school funds of the district. [Amendment approved May 31, 1917; Stats. 1917, p. 1382.]

§ 1771. Powers of county boards of education. County boards of education have power:

1. **Rules and regulations.** To adopt rules and regulations, not inconsistent with the laws of this state, for their own government.

2. **Examination of applicants for certificate.** To prescribe and enforce rules for the examination of teachers, to examine applicants for elementary school certificates and to establish a standard of proficiency which will entitle the person examined to a certificate.

3. **Grant certificates.** To grant, in accordance with sections one thousand seven hundred seventy-two and one thousand seven hundred

seventy-five of this code, the following certificates, renewable at the option of the board:

(a) **Secondary school.** Secondary school certificates, authorizing the holders to teach in any secondary or elementary school in the county.

(b) **Elementary school.** Elementary school certificates authorizing the holders to teach in any elementary school of the county, and in the first two years of any intermediate school course established as provided in section one thousand seven hundred fifty *a* of the Political Code; provided, that holders of elementary school certificates who have completed two years of work in a college, or one year of work in a college in addition to a normal school course, under regulations prescribed by the state board of education, may teach in the third year of any intermediate school course.

(c) **Kindergarten-primary.** Kindergarten-primary certificates, authorizing the holders to teach in any kindergarten class in the county.

(d) **Special certificate.** Special certificates, authorizing the holders to teach in the schools of the county such branch or branches of learning and in such grades as are named in such certificates. No special certificate shall be granted except for the oral teaching of the deaf or for the teaching of atypical children or for the teaching of special classes in citizenship, or for teaching a subject included under the manual and fine arts, oral and dramatic expression, library craft, technique and use, music, physical education, agriculture, commercial branches, commercial Spanish, vocational guidance and technical, household and industrial arts, and other vocational arts, not herein specified.

4. **Grant permanent certificates.** To grant, in accordance with the provisions of this code, permanent certificates of the grade and kind designated therein. Every certificate except a permanent certificate shall be valid for six years; provided, that when any certificate shall be granted on a recommendation or credential given for a limited period only, such certificate shall not be valid for a longer period than that specified in such recommendation or credential; and provided, further, that any certificate granted to a candidate who has not had at least one year of experience in teaching shall not be valid for a longer period than two years. All certificates must be issued upon blank forms prepared by the superintendent of public instruction, and must have the impress of the seal of the county board of education and be signed by a majority of the members of the county board of education issuing such certificate; and it is further provided, that the holder of any certificate issued for a limited period as hereinabove provided, may, upon application to the county board of education issuing the same, have said certificate renewed for a period of six years from the date of its expiration, provided that the holder of such limited certificate has completed one year of successful public school teaching and shall file application for such renewal with the county board of education prior to the date of expiration of such limited certificate.

5. **Adopt list of books.** To adopt a list of books and apparatus for district school libraries and books for supplementary use in elementary schools in their respective counties and cities and counties, as required

by section one thousand seven hundred twelve of the Political Code; provided, that no pupil shall be required to purchase said supplementary books, and pupils must be expressly notified by teachers that it is not required or desirable that such books for supplementary use be purchased by pupils or parents. When supplementary books are purchased, they must be paid for by the school district. Except in cities having a city board of education, to prescribe and enforce in the public schools a course of study and the use of a uniform series of text-books.

6. **Revoke or suspend certificates.** To revoke or suspend, for immoral or unprofessional conduct, evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of teachers, the certificates granted by them. But no certificate shall be revoked or suspended until after a hearing before the county board of education, and then only upon the affirmative vote of at least four members of the board. All charges of immoral or unprofessional conduct, of evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of teachers, shall be presented to the board in writing and shall be verified under oath. Notice of the time of hearing and a full and complete copy of the charges shall be furnished to the accused at least ten days before the hearing. The accused shall be given a fair and impartial hearing and shall have the right to be represented by counsel. The hearing shall be governed by, and conducted under, the rules of the board.

7. **Record of proceedings.** To keep a record of their proceedings.

8. **Issue diplomas.** To provide for the conferring of diplomas of graduation, by examination by the county board of education, and to issue such diplomas of graduation from the elementary schools of the county except city schools governed by city boards of education; provided, that nothing herein shall be construed as prohibiting the county board of education from issuing diplomas of graduation without examination to the pupils in any school which has been accredited by the said county board of education. Such diplomas shall be conferred only upon such pupils as have completed the course of study prescribed by the board. All diplomas granted by the county board of education shall be on blanks furnished by the superintendent of public instruction and shall be signed by the president and secretary of the board.

9. **Seal.** To adopt and use in authentication of their acts, an official seal, and to have such printing done as may be necessary.

10. **Prescribe course of study.** To prescribe and it shall be their duty to prescribe, on or before the first day of July of each year, the course of study in and for each grade of the elementary schools of the county for the ensuing school year; provided, that such course of study shall not apply to elementary schools in cities governed by city boards of education. Whenever necessary the board may amend and change the course of study, subject to sections one thousand six hundred sixty-five of this code. [Amendment approved May 29, 1917; Stats. 1917, p. 1315.]

§ 1775. **Certificates without examination.** 1. County boards of education may, without examination grant certificates as follows:

(a) **High school.** High school certificates: (1) To the holders of high school credentials approved by the state board of education in accordance with the provisions of this code; (2) to the holders of special credentials issued by said state board in accordance with the provisions of this code; (3) to holders of high school certificates issued by any county or city and county board of education in this state.

(b) **Elementary school.** Elementary school certificates: To holders of the following credentials: (1) Life diplomas or certificates of any state; provided, the state board of education in this state shall have decided that said diplomas or certificates represent experience and scholarship equivalent to the requirements for the elementary life diploma in California; (2) California state normal school diplomas, San Francisco city normal school diplomas heretofore granted, and other normal school diplomas; provided, that the state board of education of this state shall have recommended the normal school issuing said diploma as being of equal rank with the state normal schools of California; (3) elementary school teachers' certificates of any county, or city and county of California; provided, that the holder thereof has had eight months of successful teaching experience; (4) diplomas of graduation with the bachelor's degree based upon a four-year course, granted by the University of California or any other university accredited by the state board of education for high school certification; provided, that the holder thereof has successfully completed ten months of experience in teaching, or twelve units of pedagogy according to regulations prescribed by the state board of education; (5) temporary two-year certificates heretofore granted by county, or city and county superintendents of schools in accordance with law.

(c) **Kindergarten-primary.** Kindergarten-primary certificates: (1) to the holders of kindergarten-primary certificates of any county, or city and county of California; (2) to the holders of diplomas of graduation from the kindergarten department of any state normal school in the state; (3) to the holders of credentials showing that the applicant has had professional kindergarten training in an institution approved by the state board of education, and also a general education equivalent to the requirements for graduation from the kindergarten department of a California state normal school.

(d) **Special. Special certificates:** (1) To the holders of credentials approved by the state board of education, in accordance with the provisions of this code; (2) to the holders of special credentials issued by the state board of education, in accordance with the provisions of this code.

2. **Elementary certificates to primary grade certificate holders.** Elementary school certificates may be granted to the holders of primary grade certificates who shall pass satisfactory examinations in such branches as do not appear on their certificates, or in the record of the examination upon which the original certificate was granted.

3. **Certificates now valid continue in force.** All certificates and diplomas now valid in California shall continue in force and effect for the full term for which they were granted. County boards of education may renew any certificate issued by them prior to the adoption of this law,

and now in force, and may renew certificates granted by authority of law. Except as otherwise provided, renewed certificates shall be valid for a period of six years.

4. **Permanent certificate after five years' teaching.** When the holder of any certificate or state diploma shall have taught successfully in the same county, or city and county, for five years, the board of education of such county, or city and county, may grant a permanent certificate of the kind and grade which said applicant holds, valid in the county, or city and county, in which issued, during the life of the holder, or until revoked for any of the causes designated in subdivision six of section one thousand seven hundred seventy-one of this code; provided, that such permanent certificate shall in no case be of a higher grade than the grade of the certificate or state diploma on which the teaching has been done; and for a permanent high school certificate twenty months of said teaching shall have consisted of regular high school work; and provided, further, that a certificate when renewed the second time, or any time thereafter, shall become, by such renewal, a permanent certificate, if the holder of said certificate shall have complied with all the conditions of this subdivision.

5. **Holders of existing certificates.** No teacher shall be employed to teach in any way in any school if the certificate held by the teacher is of a grade below that of the school or class to be taught, nor shall a teacher holding a special certificate be employed to teach any subject not authorized in such certificate; provided, that the holders of existing primary certificates, or of the same when hereafter renewed or made permanent shall be eligible to teach in any of the grades of the day or evening elementary schools below the sixth year, and not including the kindergarten grades; and in any day or evening elementary school of the county, or city and county, which the county or city and county superintendent shall designate as a primary school; and provided, further, that the holder of any valid special certificate for kindergarten work, or of any kindergarten-primary certificate, who has had at least one year of training in a state normal school in California, or other normal school accredited by the state board of education, or one year of teaching in an elementary school shall be entitled to teach in the first grade of the elementary school.

6. **High school librarian.** No librarian shall be employed for more than two hours a day in any high school, unless such librarian holds a high school certificate or a special teachers' certificate in library craft technique and use, of secondary grade, granted in accordance with the provisions of this code. Such librarians shall rank as teachers, and shall be subject to the burdens and entitled to the benfits of the public school teachers retirement salary fund law on the same basis as other teachers. [Amendment approved May 29, 1917; Stats. 1917, p. 1317.]

§ 1838. **Estimate of amount needed for building purposes. Levy of tax. Building fund. Maximum rate.** The board of school trustees or the board of education of any school district or of any city, or city and county, may, at least fifteen days before the first day of the month in which the board of supervisors is required by law to levy the taxes re-

quired for county purposes, submit to the county superintendent of schools an estimate of any amount of money in excess of the amounts on hand and available for building purposes, which will be required for purchasing school lots, for building or purchasing one or more school buildings or making alterations or additions to any school building or buildings, for repairing, restoring or rebuilding any school building damaged, injured, or destroyed by fire, or other public calamity, for insuring school buildings, for supplying school buildings with furniture or necessary apparatus or for improving school grounds, in their several districts for the ensuing school year, or for liquidating any indebtedness incurred for said purposes or any of them during the preceding school year.

The county superintendent of schools shall thereupon examine said estimates, and submit copies of the same with his approval or disapproval endorsed thereon, to the board of supervisors and to the county auditor at the time he submits to them his estimate for the county school tax for the ensuing school year. If the county superintendent of schools approve such estimate, the said board of supervisors may, at the time and in the manner of levying other taxes, levy and cause to be collected in the several school districts for which estimates have been submitted and approved as herein provided, the excess amounts so submitted and approved. The funds so levied and collected shall be known as the building fund of —— school district (as the case may be), and shall be available for any or all of the purposes hereinbefore enumerated, and the moneys drawn from such fund shall be paid out in the same manner as are moneys from the building funds of school districts; provided, that the maximum rate of taxation which may be levied under this section shall not exceed fifteen cents on the one hundred dollars; provided, this section shall not be so construed as to repeal sections one thousand eight hundred thirty and one thousand eight hundred thirty-seven, inclusive, and one thousand eight hundred forty of the Political Code, or any part or parts thereof and any tax levied under the provisions of this section shall be in addition to any tax for maintenance levied under the provisions of section one thousand eight hundred forty of the Political Code. [New section added June 1, 1917; Stats. 1917, p. 1560.]

§ 1858. **Apportionment of school moneys for elementary grades.** The school superintendent of every county and city and county must apportion all state and county school moneys for the elementary grades of his county or city and county as follows:

Ascertaining number of teachers for school districts. First—He must ascertain the number of teachers each school district is entitled to by calculating one teacher for every district having thirty-five or a less number of units of average daily attendance and one additional teacher for each additional thirty-five units of average daily attendance, or fraction of thirty-five not less than ten units of average daily attendance as shown by the annual school report of the school district for the next preceding school year; and two additional teachers shall be allowed to each district for every seven hundred units of average daily attendance; and in districts wherein separate classes are established for the instruction of the deaf, as provided in section one thousand six hundred eight-

teen of this code, an additional teacher for each nine deaf children, or fraction of such number, not less than five, actually attending such classes.

Ascertaining number of teachers for cities or cities and counties. Second—He must ascertain the total number of teachers for the county or city and county by adding together the number of teachers allowed to the several districts. He must make an annual report of the schools of his county or city and county under oath to the superintendent of public instruction not later than August first of each year, and must report the number of teachers ascertained and allowed to his county or city and county by the rule or provisions of subdivision one hereof.

Allowance for each teacher. Third—Five hundred fifty dollars shall be apportioned to every school district for every teacher so allowed to it; provided, that to districts having over thirty-five or a multiple of thirty-five units of average daily attendance and a fraction of less than ten units of average daily attendance, forty dollars shall be apportioned for each unit of average daily attendance in said fraction.

Remainder apportioned by daily attendance. Fourth—All school moneys remaining on hand, after apportioning to the school districts the moneys provided for in subdivision three of this section, must be apportioned to the several districts in proportion to the average daily attendance in each district during the next preceding school year. In any newly organized school district where school was not maintained during the school year in which it was organized the county superintendent shall apportion seven hundred dollars to the newly organized school district for the purpose of maintaining school therein during the school year next succeeding the school year in which it was organized.

Minimum full day's attendance. Fifth—A minimum full day's attendance on the regular full-time elementary day school as hereby established, is, for a pupil of the first, second, or third grade, two hundred minutes, and for a pupil of the fourth, fifth, sixth, seventh, or eighth grade, two hundred forty minutes, of actual attendance for any given day upon school sessions, exclusive of intermissions. When a pupil is absent from the first, second, or third grade of a regular full-time day school, for any day, session, or part of a session, five per cent of a day's absence must be recorded for each full ten-minute period of absence; and when a pupil is absent from any other grade of said elementary school for any day, session or part of a session, five per cent of a day's absence must be recorded for each full twelve-minute period of absence; provided, however, that such record may not for any one day exceed one hundred per cent. The actual attendance of a pupil upon a regular full-time day school for any given length of time shall be the number of days school was actually taught during such time less the sum of his absences. The actual time in minutes that pupils are in attendance upon evening schools and the special day and special evening classes of day schools of elementary and secondary grade shall be kept. A full day's attendance upon such schools or classes shall be four sixty-minute hours. Units of average daily attendance in elementary schools shall be construed to be the quotient arising from dividing the total number of days of pupils' attendance in the regular full-time day and evening

elementary schools including the special day and evening classes of the elementary schools of the district for the school year by the number of days school was actually taught in the regular elementary day schools of the district during said year; and units of average daily attendance in secondary schools shall be construed to be the quotient arising from dividing the total number of days of pupils' attendance in the regular full-time secondary schools, the evening secondary schools, the special day and evening classes of secondary schools, and the part-time vocational courses of the district for the school year by the number of days school was actually taught in the regular secondary day schools of the district during said year.

Uniform regulations governing keeping attendance. Sixth—Subject to the provisions of this code, the state board of education shall adopt uniform regulations governing the keeping of attendance in all secondary schools. In adopting regulations governing the keeping of the attendance of pupils upon the part-time vocational courses provided for in section one thousand seven hundred fifty *c* of this code, the state board may, in its discretion, provide that the time spent by a pupil in practical vocational work shall be counted in making up each six-hour minimum daily unit of attendance.

When school closed because of contagious disease, etc. Seventh—Where a school in a district maintaining more than one school is closed for a part of a term by order of a city or county board of health or of the state board of health, on account of contagious disease, or where such school has been closed on account of fire, flood or other public disaster, the average daily attendance of said school shall be estimated separately and added to the average daily attendance of the other schools of the district. The units of average daily attendance of said school shall be determined by dividing the total number of days of pupils' attendance upon such school including the special day and evening classes and the part-time vocational courses by the number of full-day sessions actually maintained in such school during the year; provided, that where such number is less than one hundred twenty days the divisor shall be one hundred twenty.

When districts do not have sufficient funds. Eighth.—Whenever in any school year, prior to the receipt by the school districts of any county, or city and county of this state, of their state, county, or city and county, or special or high school fund, the school districts of that county, or city and county shall not have sufficient money to their credit to pay the lawful demands against them, the county or city and county superintendent shall give the treasurer of said county or city and county, an estimate of the amount of school money that will next be paid into the county or city and county treasury, stating the amount to be apportioned to each district. Upon the receipt of such estimate it shall be the duty of the treasurer of said county, or city and county, to transfer from any fund not immediately needed to pay the claims against it, to the proper school fund an amount not to exceed ninety per cent of the amount estimated by the superintendent, and he shall immediately notify the superintendent of the amount so transferred. The funds so transferred to the school fund shall be retransferred by the treasurer to the

fund from which they were taken, from the first money paid into the school fund after the transfer. [Amendment approved May 31, 1917; Stats. 1917, p. 1385.]

§ 1878. **School year, commencement and end.** [Repealed May 18, 1917; Stats. 1917, p. 708.]

§ 1891. **School districts in different counties.** When any school district is situated partly in two or more counties, all returns, reports, certificates, estimates, petitions and other papers of any kind required to be filed with or presented to the board of supervisors by any provision of this code relating to schools and school districts shall be filed with or presented to the supervisors of every county in which any portion of said district may be situated, and all action required to be taken by the board of supervisors regarding any such matters shall be taken by the concurrent action of the respective boards of supervisors of every county in which any portion of said district may be situated. The assessor of each of such counties shall annually certify to the board of supervisors of each of the counties in which any portion of such school district is situated the assessed value of all taxable property in such county situated in such school district as appears from the last assessment roll of his county, such certificate to be made in the same manner and at the same time as is required for school districts located wholly within the boundaries of one county. The board of supervisors of each county shall thereupon determine the rate of taxation necessary to be levied upon the property in said district situated in the county, such rate to be sufficient to meet the proportion of taxes necessary to be raised in the county for the purpose of paying the principal and interest of the bonds of the district and all other expenses of the district as shown by the estimate of the county superintendent of schools having jurisdiction over such district. Such taxes shall be assessed, levied and collected in the same manner and at the same time as county taxes are assessed, levied and collected, and the moneys so received shall, on demand of the board of trustees of any such school district, be deposited in the county treasury of the county whose superintendent of schools has jurisdiction over such school district, and said county treasury is hereby declared to be the legal depositary of such school district. The moneys so deposited shall be placed in the school fund of such school district to be expended in the same manner as moneys of other school districts are expended. [Amendment approved May 18, 1917, Stats. 1917, p. 711.]

§ 1918. **Articles of war of United States army adopted.** The articles of war governing the United States army so far as such articles are not inconsistent with the rights reserved to the state of California and guaranteed under the constitution of the state of California, are hereby adopted for the government of the national guard of this state. No punishment under such articles of war which shall extend to the taking of life shall in any case be inflicted except in time of actual war, invasion, or insurrection, declared by proclamation of the governor to exist and then only after the approval by the governor of such punishment.

Imprisonment other than in the guardhouse shall be executed in jails or in prisons designated by the governor for that purpose. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

§ 1919. **Application of United States laws, rules and regulations.** All acts of congress and all rules and regulations for the government of the United States army so far as the same are not inconsistent with the rights reserved to the state of California and guaranteed under the constitution of the state of California, constitute the rules and regulations for the government of the national guard. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

§ 1924. **Bond of adjutant-general.** The adjutant-general must execute an official bond in the sum of ten thousand dollars, and the assistant adjutant-general must execute an official bond in the sum of two thousand dollars. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

§ 1925. **Staff departments of national guard. Duty of commander-in-chief concerning organization.** The national guard of California shall consist of the following staff departments, to wit: An adjutant-general's department, an inspector-general's department, a judge advocate-general's department, a quartermaster corps, a medical department, a corps of engineers, an ordnance department, a signal corps, an aviation corps, and such other staff departments as may be prescribed and authorized by the national defense act of June 3, 1916, and the various amendments thereto; it shall also consist of the commissioned officers who shall hereafter be placed in the national guard reserve; it shall also consist of all organizations now forming the national guard of this state under the terms of the said national defense act of June 3, 1916, and the amendments thereto; and shall include the naval militia of this state; it shall also consist of such other organizations as may be required by the national defense act of June 3, 1916, and the amendments thereto. The commander-in-chief shall have the power, and it shall be his duty to change the organization of the national guard of this state so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the national guard, and for that purpose the number of officers and noncommissioned officers of any grade may be increased or diminished or the grades may be altered or created whenever necessary to procure such uniformity. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

Another section 1925 was adopted at the same session of the legislature, as follows:

§ 1925. **National guard organization under national defense act of June 3, 1916.** The national guard of California shall consist of the following staff departments, to wit: An adjutant-general's department, an inspector-general's department, a judge advocate-general's department, a quartermaster corps, a medical department, a corps of engineers, an ordnance department, a signal corps, an aviation corps, and such other staff departments as may be prescribed and authorized by the national

defense act of June 3, 1916, and the various amendments thereto; it shall also consist of the commissioned officers who shall hereafter be placed in the national guard reserve; it shall also consist of all organizations now forming the national guard of this state under the terms of the said national defense act of June 3, 1916, and the amendments thereto; and shall include the naval militia of this state; it shall also consist of such other organizations as are now formed under or as may be required by the national defense act of June 3, 1916, and the amendments thereto. The commander-in-chief shall have the power, and it shall be his duty to change the organization of the national guard of this state so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the national guard, and for that purpose the number of officers and noncommissioned officers of any grade may be increased or diminished or the grades may be altered or created whenever necessary to procure such uniformity. [Amendment approved March 2, 1917; Stats. 1917, p. 10.]

§ 2. **Urgency measure.** Inasmuch as the present unsettled and threatening condition of international relations makes it essential that the state shall have at its disposal at the earliest possible moment every military organization within its borders, the amendments to section one thousand nine hundred twenty-five of the Political Code hereby made are declared to be necessary for the immediate preservation of the public peace and safety and this act is declared to be an urgency measure within the meaning of section one of article four of the constitution.

Another section 1925 was adopted at the same session of the legislature. See prior section.

§ 1926. Rules and regulations not inconsistent with those of United States. The commander-in-chief shall make such rules and regulations for the government, administration and control of the departments, corps and organizations of the national guard not inconsistent with the laws, regulations and customs of the service of the United States army or navy, and the laws of this state, as he may deem necessary to render the departments, corps and organizations efficient. [Amendment approved May 10, 1917; Stats. 1917, p. 304.]

§ 1927. Adjutant-general's department. Appointment. Qualifications. Clerical force. The adjutant-general's department shall consist of one brigadier-general, and one lieutenant-colonel, both of whom shall be either commissioned in the adjutant-general's department or detailed from officers of other arms of the service or in the national guard reserve and such other officers as may be prescribed by the national defense act of June 3, 1916, and the various amendments thereto. The brigadier-general shall be chief of the department and his designation shall be the adjutant-general, state of California; the lieutenant-colonel shall be designated the assistant adjutant-general, state of California. The adjutant-general will be appointed by and hold office at the pleasure of the governor or until his successor is appointed and qualifies. The assistant adjutant-general will be appointed by the governor, taking into consideration the recommendation of the adjutant-general, and shall

hold office at the pleasure of the governor, or until his successor is appointed and qualifies; provided, that the qualifications for the appointment to the grades of brigadier-general and lieutenant-colonel in the adjutant-general's department shall be the same as prescribed in section one thousand nine hundred thirty-four of this code for a general officer. The officer appointed the assistant adjutant-general shall be on duty in the adjutant-general's office. All officers in the adjutant-general's department shall be appointed by the governor, taking into consideration the recommendation of the adjutant-general, and, with the exception of the adjutant-general and the assistant adjutant-general, shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose; provided, that the officers of the adjutant-general's department that are to be assigned to brigades shall be appointed as provided for other staff officers in section one thousand nine hundred fifty-seven of this code. All officers appointed to the grade of major in the adjutant-general's department shall have served not less than two years as commissioned officers in the national guard of California. There shall be employed in the adjutant-general's office the following clerical force: one chief clerk; three clerks; and one stenographer and clerk. There shall also be employed in the adjutant-general's office one military storekeeper, and one assistant military storekeeper and porter. [Amendment approved May 10, 1917; Stats. 1917, p. 304.]

§ 1928a. **Inspector-general's department.** The inspector-general's department shall consist of such officers of the grades and numbers as may be prescribed by the commander-in-chief and the same shall be of the grades and numbers as are authorized and prescribed by the laws and regulations of the war department for the corresponding department of the United States army and as are authorized and prescribed by said laws and regulations of the war department for the national guard. The duties of the officers of the inspector-general's department shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by orders and regulations of the war department for like officers of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 305.]

§ 1928b. **Judge advocate-general's department.** The judge advocate-general's department shall consist of such officers of the grades and numbers as may be prescribed by the commander-in-chief and the same shall be of the grades and number as are authorized and prescribed by the laws and regulations of the war department for the corresponding department of the United States army, and as are authorized and prescribed by said laws and regulations of the war department for the national guard. The duties of the officers of the judge advocate-general's department shall be as are prescribed by the commander-in-chief, and shall conform to the duties prescribed by the orders and regulations of the war department for like officers of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 305.]

§ 1928d. Quartermaster corps. The quartermaster corps shall consist of a quartermaster-general (who shall be adjutant-general), and of such officers, enlisted men and civilian employees as are deemed necessary by the commander-in-chief in organizing said corps under the provisions of section one thousand nine hundred twenty-five of this title, and such officers and enlisted men shall have the same titles as those of corresponding grade in the United States army, and shall be of the same grades and numbers as are authorized or prescribed by the laws and regulations of the United States for the corresponding corps of the United States army, or as authorized or prescribed by the said laws and regulations of the war department for the national guard. The enlistments in the quartermaster corps and the appointments of noncommissioned officers and the employment of civilian employees therein shall be as prescribed by the commander-in-chief. The duties of the officers, the enlisted men and civilian employees of the quartermaster corps shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by orders and regulations of the war department for a like corps of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 305.]

§ 1929. Medical department. The medical department of the national guard of California shall consist of a medical corps, dental corps, a hospital corps, the medical department of the naval militia, and of such officers and enlisted men as are deemed necessary by the commander-in-chief in organizing said department under the provisions of section one thousand nine hundred twenty-five of this title, and such officers and enlisted men shall have the same title as those of corresponding grades of the United States army or United States navy, and shall be of the same grades and numbers, as are authorized or prescribed by the laws and regulations of the United States for the medical department of the United States army or navy, or as authorized and prescribed by the said laws or regulations of the war or navy departments for the national guard or naval militia. The duties of the officers and enlisted men of the medical department shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by orders or regulations of the war or navy departments for a like department of the United States army or navy. When deemed necessary by the commander-in-chief a medical reserve corps, or female nurse corps, or both, may be provided. [Amendment approved May 10, 1917; Stats. 1917, p. 306.]

§ 1930. Corps of engineers. The corps of engineers shall consist of such officers and enlisted men of the grades and numbers as may be prescribed by the commander-in-chief, and the same shall be of the grades and numbers as are authorized and prescribed by the laws and regulations of the war department for the corresponding corps of the United States army, and as are authorized and prescribed by the said laws and regulations of the war department for the national guard. The duties of officers and enlisted men of the corps of engineers shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by the orders and regulations of the war depart-

ment for like officers and enlisted men of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 306.]

§ 1931. **Signal corps.** The signal corps shall consist of such officers and enlisted men of the grades and numbers as may be prescribed by the commander-in-chief, and the same shall be of the grades and numbers as are authorized and prescribed by the laws and regulations of the war department for the corresponding corps of the United States army, and as are authorized and prescribed by said laws and regulations of the war department for the national guard. The duties of the officers and enlisted men of the signal corps shall be as prescribed by the commander-in-chief and shall conform to the duties prescribed by the orders and regulations of the war department for like officers and enlisted men of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 306.]

§ 1932. **Coast artillery.** The coast artillery shall be organized as a corps and shall consist of such number of companies as may be authorized. The number and qualifications of the officers and enlisted men belonging to such coast artillery corps shall conform to the tables of organizations for such corps prescribed by the rules and regulations of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

§ 1932½. **Field artillery.** The field artillery shall be organized into batteries, battalions, separate battalions, and regiments, conforming to similar organizations of the United States army as to numbers, ranks and grades of commander, officers, staffs, enlisted men and equipment; provided, that the commander of a separate battalion shall have on his staff one veterinarian, who when in active service shall draw the same pay as a veterinarian of the United States army. He shall be appointed as staff officers are appointed. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

§ 1933. **Cavalry.** The cavalry shall consist of such number of troops as the commander-in-chief shall designate. The troops of cavalry shall be organized into regiments, or squadrons, at the discretion of the commander-in-chief. Such number of officers and enlisted men of the ranks and grades that obtain in the United States army for similar organizations, shall constitute the organizations of the cavalry of the national guard; provided, however, that for a separate squadron of cavalry the commander-in-chief shall appoint one veterinarian who shall be on the staff of the squadron commander, and who, when in active service, shall receive the same pay as a veterinarian in the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

§ 1934. **Infantry.** The organization of infantry of the national guard shall conform in numbers and grades, of commander, staffs, officers and enlisted men, to similar organizations of the United States army. The infantry shall be organized into brigades, regiments, battalions, separate battalions, companies, separate companies, and detachments, conforming as to officers, staff, personnel and equipment to like

organizations of the United States army. The minimum strength of an infantry company of the national guard in time of peace shall be such officers and enlisted men of such numbers and grades as are deemed necessary by the commander-in-chief, and in conformance with the laws and regulations of the United States for similar companies of the United States army, or to the said laws and regulations of the war department for the national guard. No person shall be commissioned as a general officer in the national guard of this state unless he shall have attained to the grade of field officer and shall have had four years previous experience either as a commissioned officer in command, or in service with, troops of the line of this state or of another state, or territory, or District of Columbia, or of the United States army or marine corps, or in any or all of said services combined. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

§ 1951. **Commissions.** All officers shall be commissioned by the commander-in-chief, but he may refuse to issue a commission to any person if the person be in any way unqualified or unworthy to be an officer in the national guard; but no one shall be commissioned unless the conditions set forth in sections one thousand nine hundred fifty-three and one thousand nine hundred fifty-four of this chapter, have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissioned, and shall have taken the oath of office, and filed the bond in the manner and as required in this title. [Amendment approved May 10, 1917; Stats. 1917, p. 308.]

§ 1953. **Qualifications for commissioned officers.** Commissioned officers must be citizens of the United States, of the age of twenty-one years and upward. No person who has been in the military or naval service of the United States, of this state, or of any other state in the United States, and who has not been honorably discharged therefrom, shall be commissioned in the national guard of California. No person shall be commissioned unless he shall possess the additional requirements herein prescribed for the particular office to which he is to be commissioned and in addition thereto must successfully pass such examination as may be required by the war department. All medical officers shall be regularly graduated, licensed, and practicing physicians or surgeons, licensed to practice their profession in California, or shall have been surgeons in the United States army or navy. All judge advocates of the national guard of California shall be members of the bar of the supreme court of the state of California. All engineer officers, except engineer officers of the naval militia of California, must be qualified to design, as well as to direct, engineering works. All chaplains shall be regularly ordained priests or ministers of the gospel of some denomination. [Amendment approved May 10, 1917; Stats. 1917, p. 308.]

§ 1954. **Physical examination.** Before receiving a commission, or before being commissioned to a higher grade as a result of promotion, every officer of the national guard must have passed a satisfactory physical examination before a medical officer of the national guard, and a satisfactory examination before a board of commissioned officers as to his knowledge of military affairs and general knowledge and fitness

for the service, and anyone failing to pass such examination shall not be eligible for an office in the national guard or for promotion for a period of one year after date of such failure; provided, that officers on the staff of the commander-in-chief are exempt from examination. [Amendment approved May 10, 1917; Stats. 1917, p. 308.]

§ 1955. **Boards of examination.** Boards of examination under the preceding section shall consist of three officers. Such boards shall have the same power to take evidence, administer oath, and compel witnesses to attend and testify, produce books and papers, and punish their failure to do so, as is possessed by a general court-martial. [Amendment approved May 10, 1917; Stats. 1917, p. 309.]

§ 1956. **Officers now serving.** All officers now serving in the active national guard of this state, or who may hereafter be commissioned therein, shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose; provided, that all officers commissioned in the national guard of this state shall have had military experience prior to such commission, excepting officers of the judge advocate-general's department, medical department and officers of engineers, who shall not be required to have had such prior service. [Amendment approved May 10, 1917; Stats. 1917, p. 309.]

§ 1957. **Vacancies.** When a vacancy occurs among the general officers of the line of the national guard, the governor shall propose to the war department, upon the recommendation of the adjutant-general, the name of an officer to fill the vacancy. The officer so recommended will be required to take such examination as may be prescribed by the war department. When notified by the war department that the officer has successfully passed such examination, the governor shall commission him. The officers on the staff of a brigade, regiment, unit of coast artillery corresponding to a regiment of infantry, battalion or squadron, shall be recommended to the adjutant-general by the brigade, regimental, battalion or squadron commander, or commanding officer of unit of coast artillery corresponding to a regiment of infantry, who may recommend not to exceed three candidates of the adjutant-general, who will cause such candidates to be examined. In making these recommendations seniority of candidates will be taken into consideration. In the case of officers of separate organizations, the adjutant-general will select not to exceed three candidates, whom the adjutant-general will cause to be examined. The candidate receiving the highest rating in such examination will be recommended by the adjutant-general to the governor for commission, subject to such examination as may be prescribed by the war department. All officers shall be commissioned in the arm of the service in which they are appointed and shall be assigned to duty by the adjutant-general upon recommendation of the commanding officer of the regiment, unit of coast artillery corresponding to a regiment of infantry, separate battalion or squadron. [Amendment approved May 10, 1917; Stats. 1917, p. 309.]

§ 1958. **Officers of the line.** Officers of the line shall be appointed as provided for the appointment of staff officers in section one thousand nine hundred fifty-seven hereof, and in accordance with the terms of the national defense act of June 3, 1916, and the various amendments thereto. All line officers shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability or for cause to be determined by a court-martial legally convened for that purpose. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 1959. **Appeal from an election.** [Repealed 1917; Stats. 1917, p. 302.]

§ 1960. **Oath of office.** Every officer duly commissioned shall take his oath of office in the manner and within the time prescribed by the national defense act of June 3, 1916, the various amendments thereto and the regulations prescribed by the war department. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 1980. **Who may be enlisted. Enlistment contract.** Any male who is a citizen of the United States or who has legally declared his intention of becoming a citizen, of more than eighteen and less than thirty-five years of age, able-bodied, free from disease, of good character and temperate habits, may be enlisted in the national guard of this state under the provisions of the national defense act of June 3, 1916, and the various amendments thereto, for six years. The first three years of which shall be in an active organization and the remaining three years shall be in the national guard reserve; and such enlisted man shall have the privilege of continuing in active service during the whole of the enlistment period or of re-enlisting. The qualifications for enlistment shall be the same as those prescribed for admission to the regular army, and all men enlisting in the national guard must sign an enlistment contract, and take and subscribe to the oath set forth in section seventy of the national defense act of June 3, 1916. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 1982. **Oath.** All officers of the national guard on becoming members, and before performing duty, must take and subscribe to the oath contained in section seventy-three of the national defense act of June 3, 1916, and amendments thereto. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 2006. **Officers and members absent. Court-martial.** All officers or members of the national guard who absent themselves from three consecutive assemblages, without an excuse acceptable to their immediate respective commanding officers, are debarred from the privileges and exemptions provided for members of the national guard; and all non-commissioned officers or privates upon being reported as having been so absent shall forthwith be court-martialed by order of the regimental, or unattached battalion or squadron commander in their respective commands, and in all other organizations not attached to regiments, bat-

talions, or squadrons, but attached to brigades, by order of the brigade commander, and in all unattached organizations, by order of the governor, and, upon conviction by court-martial, the delinquent shall be punished in such manner as the court-martial convicting him may prescribe. The proceedings of such court-martial shall be subject to approval and review as in other cases. Neglect or refusal to pay any fine imposed by a court-martial within thirty days after such fine was imposed is hereby declared to be sufficient cause for the dishonorable discharge of such delinquent from the national guard. [Amendment of May 10, 1917; Stats. 1917, p. 311.]

§ 2018. **Military courts.** The military courts of the state shall be: (1) general courts-martial; (2) special courts-martial; (3) summary courts-martial; (4) courts of inquiry. The constitution and jurisdiction of general courts-martial, special courts-martial, summary courts-martial, and courts of inquiry, the form and manner in which the proceedings are conducted and recorded, the forms of oaths and affirmations taken in the administration of military law by such courts, the limits of punishment and the proceedings in the revision thereof, shall be governed by the terms of the articles of war, the national defense act of June 3, 1916, and the amendments thereto, the laws and regulations governing the army of the United States, and the law and procedure of similar courts of the United States army, except as otherwise provided in this title. [Amendment approved May 10, 1917; Stats. 1917, p. 311.]

§ 2019. **Who may appoint courts-martial.** The following officers may appoint courts-martial: (1) The President of the United States or the governor of the state of California may appoint general courts-martial. (2) The commanding officer of each garrison, fort, post, camp, or other place, brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command, but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. (3) The commanding officer of each garrison, fort, post, or other place, regiment or corps, detached battalion, company, or other detachment of the national guard, may appoint for such place or command a summary court to consist of one officer who shall have power to administer oaths and to try the enlisted men of such place or command, for breaches of discipline, and violations of law governing such organizations. [Amendment approved May 10, 1917; Stats. 1917, p. 311.]

§ 2020. **General courts-martial.** 1. General courts-martial shall have the power to impose fines not exceeding two hundred dollars; to sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of noncommissioned officers to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts. [Amendment approved May 10, 1917; Stats. 1917, p. 312.]

2. **Special courts-martial.** Special courts-martial shall have the power to try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States, and such special courts-martial and[shall] have the same

powers of punishment as the general courts-martial, except that fines imposed by such special courts-martial shall not exceed one hundred dollars. [Amendment approved May 10, 1917; Stats. 1917; p. 312.]

3. **Summary courts-martial. Other powers.** Summary courts-martial shall have the power to impose on enlisted men fines not exceeding twenty-five dollars for any single offense, and may sentence to forfeiture of pay and allowances. The proceedings of such court shall be informal, and the minutes thereof shall be the same as prescribed for summary courts of the United States army.

All courts-martial including summary courts, shall also have such powers as are conferred on them by the articles of war, and shall have cognizance of and jurisdiction over all violations of said articles; they shall also have power to sentence to confinement in lieu of fines authorized to be imposed by such courts, but such sentences of confinement shall not exceed one day for each dollar of fine authorized. [Amendment approved May 10, 1917; Stats. 1917, p. 312.]

§ 2021. Review of proceedings. Appeal to governor. The officer appointing a courts-martial must review the proceedings and approve or disapprove the sentence of such court-martial, and must direct the execution of such sentence, or mitigate the punishment, or may remit the sentence of the person convicted; but no sentence of dismissal from the service or dishonorable discharge shall be executed until approved by the governor of this state; provided, that an officer or enlisted man so sentenced may within fifteen days after official publication of the action of the reviewing officer, appeal to the governor of this state to review the proceedings and to disapprove them or pardon the offense, in which case the officer approving the sentence will forward the proceedings in the case to the governor of this state, and the execution of the sentence must be suspended until the proceedings are returned with the decision thereon. [Amendment approved May 10, 1917; Stats. 1917, p. 312.]

§ 2022. Copy of charges delivered to person under arrest. When an officer or enlisted man is put in arrest for the purposes of trial, a copy of the charges and specifications upon which he is to be tried shall be delivered to him or left at his last known place of abode or business, within such time as is prescribed by the laws and regulations governing procedure in the United States army in similar circumstances, and a court shall be ordered for his trial within the time similarly prescribed by the rules and regulations of the United States army. If a copy of the charges and specifications be not served, or a court not ordered within the time herein limited, the arrest shall cease, but such charges and specifications may be served, a court ordered, and the officer or enlisted man be brought to trial after such release from arrest within the time prescribed by the rules and regulations of the United States army in similar circumstances. The appearance of the accused, without objection and pleading to the charges, shall be deemed a waiver of any defect or irregularity of such service of any of the papers mentioned in this section. [Amendment approved May 10, 1917; Stats. 1917, p. 313.]

§ 2023. Power of military court to compel attendance of witnesses, etc. Each military court shall have the same power to compel by sub-

poena, by subpoena duces tecum, and by attachment, the attendance of witnesses, both civilian and military, and the production of books, papers, and documents, and to punish for contempt a witness duly subpoenaed for nonattendance, or refusal to be sworn or testify, or to produce books, papers and documents, as is possessed by any superior court of this state. Military courts shall also have power to take by commission the testimony of witnesses who cannot reasonably be produced at the trial to the same extent as the superior court aforesaid. Commissions and subpoenas may be issued by the president or the judge advocate, if there be one, of the court, both before and after being sworn, for witnesses whose attendance or testimony before such court may be necessary in behalf of the prosecution, and upon application in behalf of any person to be tried by such court, either the president or the judge advocate may direct the commanding officer of any organization to cause such subpoena to be served on any member of his command. A witness not appearing in obedience to a subpoena when served personally with a copy of the same, and not having sufficient excuse, shall forfeit to the people of the state the sum of twenty-five dollars. The president of each court shall, from time to time, report to the judge advocate-general, the names of all such delinquent witnesses, together with the names and places of residence of the persons serving such subpoena, and a judge advocate may sue for and recover such penalties in the name of the people. [Amendment approved May 10, 1917; Stats. 1917, p. 313.]

§ 2024. **Power of military courts to issue process and mandates.** Military courts are empowered to issue all process and mandates, including writs and warrants, necessary and proper to carry into full effect the powers vested in such courts; such process and mandates will be directed to the provost marshal, the sheriff of any county, and the constables and marshals of any town or city. It shall be the duty of all officers to whom such process or mandate may be so directed to execute the same, and make return of their acts thereunder according to the requirements of the same. The keepers and wardens of all city, county and city and county jails shall receive the bodies of persons committed by the process or mandate of a military court and confine them in the manner prescribed by law. Except as otherwise specially provided in this chapter, no fees or charges of any nature shall be demanded or required to be paid by the state, or any military court or member thereof, or by the person executing its mandate or process, or to any public officer for receiving, executing, or returning any such process or mandate, or for any service in connection therewith, or for receiving or confining the person in jail or custody thereunder. [Amendment approved May 10, 1917; Stats. 1917, p. 314.]

§ 2026. **Collection of fines and penalties.** For the purpose of collecting fines and penalties, imposed by a court-martial, the president of any such general or special court-martial and the summary court officer of any such summary court must make a list of all such fines and penalties, and of the persons against whom they have been imposed, and must thereafter issue a warrant under his hand, directed to any sheriff or constable of the county commanding him to levy and collect such fines,

together with the costs, upon and out of the property of the person against whom the fine or penalty was imposed; and such warrant shall be executed and renewed in the same manner as executions from the justices' courts are executed and renewed. All fines collected shall be paid by the officer collecting the same to the commanding officer of the organization of which the person fined is or was a member, and accounted for by said commanding officer in the same manner as are other state funds. [Amendment approved May 10, 1917; Stats. 1917, p. 314.]

§ 2027. Fines and penalties for nonattendance at parades. [Repealed 1917; Stats. 1917, p. 302.]

§ 2079. Allowances to commanding officers, etc. There must be audited and allowed by the adjutant-general and paid out of the appropriation for military purposes, upon the warrant of the state controller, to the commanding officer of each infantry, coast artillery, engineer, field hospital, ambulace company, and the headquarters company of each regiment of infantry, and each division and marine company of the naval militia, except the engineer division of the naval militia, the sum of one hundred fifty dollars per month; to the commanding officer of each machine gun company, signal company, troop of cavalry, battery or field artillery, supply company, and the engineer divisions of the naval militia, the sum of two hundred dollars per month; to each supply company of separate battalions and squadrons the sum of seventy-five dollars per month; the sum so paid to be used for armory rent, care of arms, and proper incidental expenses of the company, troop, battery, field hospital, or division. There shall be audited, allowed, and paid out of the same appropriation to the commanding officer of each brigade the sum of two hundred dollars per month; to the commanding officer of the naval militia the sum of two hundred dollars per month; to the commanding officer of each regiment of infantry, and to the commanding officer of each unit of coast artillery corresponding to a regiment of infantry, two hundred dollars per month; to the commanding officer of each separate battalion of field artillery, naval militia, engineer troops and squadron of cavalry, the sum of fifty dollars per month, and to the commanding officer of each separate fort command, coast artillery, the sum of twenty-five dollars per month; the sums so paid to be used for rent of headquarters, clerical expenses, stationery, printing, postage and proper incidental expenses of the commanding officer of the organization for which said sums are audited, allowed and paid. There shall be audited, allowed and paid to the commanding officer of the naval militia, the adjutant of each regiment of infantry and coast artillery, which shall have attached to it a uniformed and organized band of not less than twenty-five men, the sum of seventy-five dollars per month for such band; to the chief surgeon the sum of fifty dollars per month for rent and proper incidental expenses; and to the adjutant-general sum of fifteen thousand dollars per annum, to be expended by him in promoting target practice. There must be audited and allowed by the adjutant-general, and paid out of the appropriation for military purposes, to the medical officer in charge of each detachment of the medical department on duty with each regiment of infantry, coast artillery, the naval militia, separate battalions and squadrons, the sum of fifty dollars per

month for rent and proper incidental expenses of such detachments, and to the medical officer in charge of detachment of the medical corps attached to each separate fort command, coast artillery the sum of ten dollars per month for proper incidental expenses. No claim shall be allowed under the provisions of this section except upon demand made quarterly in duplicate, signed and sworn to by the officer claiming the same, before any officer of the national guard, or notary public, and forwarded through the headquarters of the regiment, coast artillery corps, separate battalion, or separate squadron, or naval militia, with the approval of each commanding officer, through whose headquarters they are required to pass, direct to the adjutant-general; provided, that the adjutant-general may make expenditures at any time for the promotion of target practice, out of the appropriation for that purpose herein provided for. [Amendment approved May 10, 1917; Stats. 1917, p. 314.]

§ 2086. **Salaries; adjutant-general's department.** There shall be allowed and paid out of the general fund in the state treasury to officers, clerks and other employees in the adjutant-general's department, the following salaries payable monthly: To the brigadier-general of the adjutant-general's department (the adjutant-general), a sum not to exceed five thousand dollars per annum to be fixed by the governor; to the lieutenant-colonel of the adjutant-general's department, three thousand dollars per annum; to the chief clerk, one thousand nine hundred dollars per annum; three clerks, one thousand seven hundred dollars per annum each; one stenographer and clerk, one thousand five hundred dollars per annum; one military storekeeper, one thousand two hundred dollars per annum; one assistant military storekeeper and porter, nine hundred dollars per annum. [Amendment approved May 10, 1917; Stats. 1917, p. 316.]

§ 2107. **Armories and arsenals.** The adjutant-general shall have control of all armories and arsenals built by the state, or that may come into possession of the state, or any building or buildings that may be erected, purchased, leased or provided by any town, city, county, or city and county, for armory or arsenal purposes pursuant to any legislative act. It shall be the duty of the adjutant-general, under direction of the governor, to make and enforce regulations for the government and control of such armories, arsenals and buildings, and where appropriations have been made therefor, to advertise for and receive bids for the construction of armories, or arsenals, to enter into contract for the construction and completion thereof, to contract for and purchase the furnishings therefor, and to purchase and lease real estate for the purpose of erecting armories or arsenals thereon; provided, that it shall be the duty of the state engineer to furnish the plans, estimates and specifications for all armories and arsenals, and to superintend the erection and construction of such buildings. [Amendment approved May 10, 1917; Stats. 1917, p. 316.]

§ 2111. **Naval militia.** The organized naval militia of California shall consist of such members of deck and engineer divisions and companies of marines as the commander-in-chief may, from time to time,

prescribe, in conformity with the requirements of the navy department. The naval militia shall be located throughout the coast of the state of California at the discretion of the commander-in-chief. The words "division" and "company" as used in this chapter in connection with the naval militia shall have the same meaning and effect as "company" when used in connection with infantry as used in this chapter, and the word "battalion" as used in this chapter in connection with the naval militia shall have the same meaning and effect as "battalion" when used in connection with infantry as used in this chapter. The several divisions and companies of marines of the naval militia shall be organized into battalions at the discretion of the commander-in-chief. [Amendment approved May 10, 1917; Stats. 1917, p. 316.]

§ 2112. Application of laws, rules and regulations of United States navy. Examination for commanding officer. Vacancies. Chief warrant officers. Warrant officers. Chief petty officers and petty officers. Powers of commander-in-chief. Command of vessels loaned by United States. When insufficient men available. The numerical strength, rank, titles and insignia of rank of the divisions and companies of marines of the naval militia shall conform to the laws, rules and regulations of the United States navy, and such rules and regulations as may be prescribed by the secretary of the navy for the naval militia. The naval militia shall be organized into one or more naval brigades, which shall consist of such administrative battalions as may be prescribed by the navy department for like number of divisions in the United States navy.

The officers, chief warrant officers, warrant officers and enlisted men of the naval militia of California shall be of such number and grades as may be prescribed by the commander-in-chief and the same shall be of the same number and grades as are authorized or prescribed by the laws and regulations of the United States for similar organizations of the United States navy, or as authorized or prescribed by said laws and regulations of the navy department for the naval militia.

All officers now serving in the active naval militia of this state, or who may hereafter be commissioned therein, shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose.

In order to select a commanding officer for the naval militia the adjutant-general shall nominate not to exceed three officers, not below the grade of lieutenant-commander, and will cause such candidates to be examined. The candidate receiving the highest rating in such examination will be recommended by the adjutant-general to the governor for commission.

When vacancies occur in the commissioned personnel, the commanding officer of the naval militia will recommend not to exceed three candidates to the adjutant-general, who will cause such candidates to be examined. The candidate receiving the highest rating in such examination will be recommended by the adjutant-general to the governor for commission.

Chief warrant officers may be appointed by the commander-in-chief upon the recommendation of the commanding officer of the naval

militia, and shall receive from the commander-in-chief a commission in the same form as commissioned officers of the naval militia. Warrant officers may be appointed by the adjutant-general upon the recommendation of the commanding officer of the naval militia and warrants for warrant officers may be issued by the adjutant-general upon the recommendation of the commanding officer of the naval militia. Chief petty officers and petty officers shall be appointed by the commanding officer of the naval militia, who shall issue to such chief petty officers and petty officers a warrant in proper form.

The organization of the naval militia shall conform generally to the provisions of the laws of the United States. The system of discipline and exercise shall conform to that of the navy of the United States as it is now and as it may hereafter be prescribed by congress and that prescribed by the provisions of the Political Code, relating to the national guard of California, and that prescribed by the secretary of the navy for the guidance of the naval militia; the commander-in-chief shall have power to alter, divide, annex, consolidate and disband the naval militia or any portion thereof whenever in his judgment the efficiency of the state forces will thereby be increased, and he shall have power to make such rules and regulations as may be deemed proper for the use, government and instruction of the naval militia; but such rules and regulations shall conform to those governing the United States navy and those prescribed for the secretary of the navy for the conduct of the naval militia. The commander-in-chief is authorized to apply to the President of the United States for the detail of commissioned officers and petty officers of the navy to act as inspectors and instructors in the art of naval warfare. Summary courts-martial for the naval militia when necessary shall be ordered by the commanding officer of the naval militia and general courts-martial for the naval militia when necessary shall be ordered by the commander-in-chief and shall be organized and conducted within the laws, regulations and usages of the United States navy, and the provisions of the section relating to the military courts in this chapter. The proceedings shall be reviewed and sentence executed as provided in this chapter. Vessels loaned by the United States government to the state of California for the use of the naval militia shall be commanded by the ranking officer for line duty resident at the port to which said vessel is assigned, and in the absence of such ranking officer for line duty, by the next ranking officer for line duty.

In a locality where there are insufficient men available to form an engineer division and there already exists an organized deck division, men of the artificer branch may be additionally enrolled in such deck division with such ratings as they may be qualified to fill, until such time as there is a sufficient number of them to form a separate engineer division, and any men in such artificer branch may be rated in the various petty officers' ratings in the artificer branch of the naval service which they are qualified to fill. In a locality where there are insufficient men available to form a marine company and there is already existing in that locality a deck division of the naval militia, a marine section may be organized with one officer and not less than twenty

enlisted marines. [Amendment approved May 10, 1917; Stats. 1917, p. 317.]

NOTE.—Act of May 10, 1917 (Stats. 1917, p. 302), amending provisions relating to the national guard, also contained the following provisions:

Sec. 42. **Repealed.** All laws or parts of laws in so far as they are not consistent with these amendments are hereby repealed.

Sec. 43. **Urgency measure.** Inasmuch as the provisions of the existing law relating to the national guard are in conflict with the provisions of the national defense act, and the provisions herein contained are necessary to enable the national guard of this state to comply with the requirements of said national defense act, and in view of the unsettled condition of the relations of the United States with foreign powers, this act is declared to be necessary for the immediate preservation of the public peace and safety and to be an urgency measure within the meaning of section one of article IV of the constitution.

§ 2141. **Powers of lunacy commission.** The commission has power:

1. To appoint a secretary whose term of office shall be four years from and after the date of his appointment and to fix his salary, which shall not be changed during his term of office, and which shall be paid at the same time and in the same manner as are the salaries of other state officers, and to appoint such other employees as it may deem necessary and fix their compensations;

2. To appoint, by its order, a competent person to examine the books, papers, and accounts, and also into the general condition and management of any institution in this chapter mentioned, to the extent deemed necessary and specified in such order;

3. To fix the annual salaries of the resident officers and treasurers of the state hospitals, which must be uniform in all the state hospitals for the insane and as near uniform as possible in all state hospitals, and to classify the other officers and employees in grades, and determine the salaries and wages to be paid in each grade, which must be uniform in all hospitals for the insane, and as near uniform as possible in all state hospitals;

4. To determine the kind and character of all employees who shall be employed at any state hospital according to the needs and objects of the hospital;

5. To permit any religious or missionary corporation or society to erect a building on the grounds of any state hospital for the holding of religious services, said building when erected to become the property of the state and to be used exclusively for the benefit of the inmates and employees of such state hospital and subject to such regulations and conditions as may be determined or imposed by said commission;

6. To establish and supervise a training school for attendants and nurses in any state hospital, under rules and regulations of the commission. [Amendment approved May 5, 1917; Stats. 1917, p. 274.]

§ 2187. **Transfer of patients from one hospital to another.** (a) When the building of any state hospital becomes overcrowded with patients or inmates, or the number of buildings is reduced by fire, or other casualties, or for other sufficient cause, the commission may, in its discretion, cause the transfer of patients or inmates therefrom or direct that patients or inmates required to be sent thereto, be transferred to

another state hospital, where they can be conveniently received, or make, in emergencies, temporary provision for their care, preference to be given in such transfer to a hospital in an adjoining rather than a remote district. The expense of such transfer is chargeable to the state, and the bills for the same, when approved by the commission, must be paid by the treasurer of state on the warrant of the controller, out of any moneys provided for the care or support of the insane.

(b) **Transfer on request of relatives or friends.** Patients may be transferred at the request of relatives or friends; provided, there is room in the hospital to which transfer is sought, but in case of transfers made as last provided the expense of such transfers shall be paid by such relatives or friends; provided, further, that transfers as last provided, shall not be made unless the consent of the commission and the medical superintendents of the hospitals from which and to which said transfer is to be made be obtained. [Amendment approved May 5, 1917; Stats. 1917, p. 275.]

(c) **Transfer from home for feeble-minded to state hospital.** The commission, when it deems it necessary, may transfer any inmate of the home for feeble-minded for care and treatment to a state hospital for the insane for care and treatment therein and the counties, guardian, relatives or friends of such inmate shall be liable for his care, support and maintenance in said hospital for the insane in the same manner and to the same extent as if the said patient were still an inmate of said home. The commission, when it deems it necessary, may transfer any patient in any state hospital for the insane to the said home for care and treatment therein. The estate, relatives or friends of such patient, or the county from which such patient was originally committed, shall be liable for the care, support, and maintenance of such patient at the said home in the same manner and to the same extent as if the said patient had been originally committed to the said home at the date of such transfer. [Amendment approved May 5, 1917; Stats. 1917, p. 275.]

§ 2283. **Appropriation: orphan aid. Orphan, one hundred dollars; half orphan, seventy-five dollars.** There is hereby appropriated out of any money in the state treasury not otherwise appropriated, to each and every institution in this state conducted for the support and maintenance of needy minor orphans, half orphans, or abandoned children, and to each and every county, city and county, city, or town maintaining such orphans, half orphans, or abandoned children, or any or all of such classes of persons, aid as follows: For each whole orphan and abandoned child supported and maintained in any institution, not in excess of one hundred dollars per annum; and for each half orphan, not in excess of seventy-five dollars per annum; but each abandoned child must have been an inmate thereof for one year prior to receiving any support as provided in this chapter; provided, that in addition to the amount paid by the state for each half orphan maintained at home by its mother, the county, city and county, city or town may pay for the support of such half orphan an amount equal to the sum paid by the state; and provided, further, that in any case where any such half orphan is denied aid by the county, upon a petition setting forth the

facts in full as to the necessity of aid, verified by five reputable citizens of the county, city and county, city, or town, the mother of such child shall have the right of appeal direct to the state board of control for aid of her child, and should her appeal be sustained by said board payment must be made for the child as above provided. [Amendment approved May 15, 1917; Stats. 1917, p. 560.]

§ 2285. **Books to be kept.** Every institution, county, city and county, city, or town entitled to aid under this chapter must keep the following records, which at all times must be open to the state board of control or to any person appointed by them to examine the same, or to any committee of the legislature, or to any clerk or officer thereof duly authorized to make such examination:

1. **Date of admission, etc.** A record on which must be entered the date of admission, name, age, sex, and place of birth of each and every orphan, half orphan, and abandoned child, who is or may hereafter be received or admitted into such institution, or to county aid, and the date of discharge of any such child, when such discharge is made, the parentage, if known; the estate, if any, to which the child is heir, and the insurance, if any, on the father's or mother's life; so far as can be ascertained, the place where either parent or both died, the nativity of the parents, where married, the marriage certificate, where recorded, when they came to California, place of residence in California, and habits of sobriety.

2. **Monthly accounts.** A book entitled "monthly accounts." In it must be entered on the debtor side, all the moneys received from any and all sources segregated under the proper heads; on the credit side must be entered all disbursements made, specifying for what purposes made, and the amount entered in detail so disbursed, segregated under their proper heads.

3. **Pay-roll.** A pay-roll of the employees, and the amounts disbursed to each.

4. **Amounts paid for support.** A book in which must be entered in detail the amounts paid for the specific support of every orphan, half orphan, or abandoned child and the date of such payments.

5. **Transcript of books and pay-roll.** A transcript of the books and pay-roll, verified under oath by the manager or person in charge of such institution entitled to or claiming state aid under this chapter, must, when demanded by the state board of control, be made and forwarded to the said board at the time of presenting claim for state aid.

6. **List of inmates.** A list of all the inmates other than employees or orphans supported wholly or in part by any institution presenting a claim for state aid under this chapter, must also be forwarded with such claim for aid. [Amendment approved May 15, 1917; Stats. 1917, p. 561.]

§ 2286. **Board of control may inquire into institutions. Children's agents. Salaries.** The state board of control is authorized in behalf of the state, at any time to inquire, either in person or by authorized agent, into the management of any such institution; and any institu-

tion refusing, upon due demand, to permit such inquiry or to comply with regulations established by said board for the proper maintenance and care of children receiving state aid must not thereafter receive any aid under this chapter until it has complied with all requirements. To carry out the provisions of this act, the state board of control may appoint a chief children's agent and three children's agents who shall, under the rules of said board, visit the homes and the institutions in which are children to whom state aid is being given or for whom aid is being asked, to obtain such information as the board may need in carrying out the provisions of this chapter. Such chief agent shall receive necessary traveling expenses and a salary of two hundred twenty-five dollars per month. Such three other agents shall receive their necessary traveling expenses and a salary of one hundred seventy-five dollars per month, which salary shall be paid in the same manner and at the same time as the salaries of other state officers. All expenses incurred in visiting said asylums and homes, when there are not other available funds, may be audited and allowed by the state board of control out of the appropriation for support of orphans, half orphans and abandoned children. In addition an advisory committee of three persons serving without pay or expense to the state may be appointed by the board of control, to act in any county in conjunction with the children's agents. [Amendment approved May 15, 1917; Stats. 1917, p. 562.]

§ 2289. **Prerequisites.** In order that the provisions of this chapter shall not be abused, it is hereby declared:

1. **Institution must have twenty inmates.** That no institution which has less than twenty inmates of either or all of the classes mentioned in section two thousand two hundred eighty-three, must be deemed an institution for the support and maintenance of minor orphans, half orphans, or abandoned children, within the intent and meaning of this chapter.

2. **Age of minor.** That no child over the age of fifteen years shall be deemed a minor orphan, half orphan, or abandoned child, within the intent and meaning of this chapter.

3. **Receiving ten dollars for child.** That no child for whose specific support there is paid to any such institution the sum of ten dollars or more per month shall be deemed a minor orphan, half orphan, or abandoned child within the intent and meaning of this chapter.

4. **Home for child.** That no child maintained in an institution for whom a bona fide offer of a proper home has been made shall be considered eligible for further state aid; it is further provided, however, that no institution shall be required to surrender a child to any person of religious faith different from that of the child or the parents of the child.

Residence in state. That a child who has not resided in this state for a period of at least two years prior to the application for aid shall not be eligible to receive state aid unless such child is born in this state. [Amendment approved May 15, 1917; Stats. 1917, p. 562.]

§ 2302. Salary state librarian. The annual salary of the state librarian is five thousand dollars. [Amendment approved June 1, 1917; Stats. 1917, p. 1663.]

§ 2319. State commissioner of horticulture. Deputies, etc. Traveling expenses. Deputy commissioner. Salaries. Offices for commissioner. San Francisco office. Quarantine officers. State insectary. Superintendent. Assistant. Field deputy. The state commissioner of horticulture of California shall be a citizen and resident of this state, and his term shall be for four years, and until his successor is appointed and qualified. The governor may remove such commissioner from office at any time upon filing with the secretary of state a certificate of removal signed by the governor. In the case of vacancy in said office by death, resignation, removal from office, or other cause the governor shall fill the vacancy for the unexpired term. In appointing such commissioner and his successor or successors, it shall be the duty of the governor to disregard political affiliations, and to be guided in his selection entirely by the professional and moral qualifications of the person so selected for the performance of the duties of said office. Said commissioner shall be a civil executive officer. The salary of said commissioner shall be four thousand dollars per annum, and he shall be allowed his traveling and incidental expenses necessary in the discharge of his duties. For the direction and accomplishment of his work the said commissioner may and is hereby empowered to appoint certain deputies, secretary, quarantine officers, superintendents, assistants, and clerk as hereinafter provided, who shall hold office at the pleasure of said commissioner and perform any and all duties pertaining to their office or employment which the said commissioner may require of each of them, and may be removed from office or position at any time by said commissioner filing with the secretary of state a certificate signed by said commissioner so removing such deputy, secretary, quarantine officer, superintendent, assistant, or clerk. The traveling and other necessary expenses incurred by the officers and employees herein provided for in the performance of their duties shall be paid from the funds appropriated for the support of the office of the state commissioner of horticulture. Said commissioner may arrange his office into three divisions, to wit: executive office, quarantine division, insectary and pathological division.

Said commissioner shall appoint a deputy commissioner who shall be an expert entomologist and horticulturist, and who shall perform such duties as may be required of him by said commissioner, and shall be acting commissioner in the absence of the commissioner. Such deputy commissioner shall receive a salary of two thousand seven hundred dollars per annum. Said commissioner shall appoint two field deputies, each of whom shall be versed in horticulture and have a practical knowledge of the methods of control of insect pests and plant diseases. Said field deputies shall receive a salary of two thousand dollars per annum each. Said commissioner shall appoint a secretary who shall be a civil executive officer. Said secretary shall perform all such duties as may be required of him by said commissioner. Such secretary shall receive a salary of two thousand seven hundred dollars per annum.

Said commissioner shall appoint a clerk whose salary shall be one thousand six hundred dollars per annum. The main office of such commissioner shall be at the city of Sacramento.

The secretary of state shall furnish and set aside at the capitol rooms suitable for offices for said commissioner, and if the secretary of state shall make and file an affidavit with the said commissioner stating that it is not possible for him, as such secretary of state, to provide and set aside an office for said commissioner in the capitol or in any state building under his control, because there is no such office or rooms available, then, and after the making and delivery of such affidavit to such commissioner, the said commissioner may rent rooms convenient and suitable for his offices at a rental not to exceed one thousand dollars per year. The office of said commissioner shall be kept open every day except holidays. Said commissioner may also keep and maintain an office in the city and county of San Francisco adequate to the purposes and requirements of the quarantine division, at a yearly rental not to exceed the sum of seven hundred fifty dollars. Said commissioner shall appoint a chief deputy quarantine officer, who shall be a skilled entomologist and particularly conversant with the nature of foreign insect pests and plant diseases and effective means of preventing their introduction, and shall have charge of the work of the quarantine division provided for in this section of this act. Such chief deputy quarantine officer shall receive a salary of two thousand seven hundred dollars per annum. Said commissioner shall appoint two deputy quarantine officers who shall be competent entomologists for the purpose of quarantine work. Such deputy quarantine officers shall each receive a salary of one thousand eight hundred dollars per annum. Said commissioner shall also properly maintain and operate the state insectary located on the state capitol grounds in Sacramento from funds provided by law for such purpose, and shall appoint for the work of the insectary division a superintendent of the insectary, who shall be an expert entomologist able to perform all the necessary duties with reference to the importation, rearing and distribution of beneficial insects. The salary of the superintendent of the state insectary shall be two thousand seven hundred dollars per annum. Said commissioner shall appoint an assistant superintendent of the insectary, who shall be an economic entomologist, at a salary of one thousand eight hundred dollars per annum. Said commissioner shall appoint a field deputy for the insectary division, who shall be a practical entomologist and whose salary shall be one thousand eight hundred dollars per annum. The salaries of all the officers above mentioned shall be paid at the same time and in the same manner as the salaries of other state officers. Said commissioner may also appoint such assistants from time to time as may be required and such assistants shall receive such reasonable compensation as may be fixed by said commissioner. [Amendment approved May 17, 1917; Stats. 1917, p. 638.]

§ 2319a. Duties of commissioner of horticulture. State horticultural quarantine officer. Quarantine guardians. It shall be the duty of the state commissioner of horticulture to promote and protect the plant industry of the state; to prevent the introduction and spread of injurious insect or animal pests, plant diseases and noxious weeds; to cause

to be put into execution such horticultural laws of a regulatory nature as are written into the statutes, and to introduce and distribute such insects as are useful in reducing the cost of crop production. Such commissioner shall collect books, pamphlets and periodicals and other documents containing information relating to horticulture and shall preserve the same; collect statistics and other information showing the actual condition and progress of horticulture in this state and elsewhere; correspond with horticultural societies, colleges and schools, and with the county horticultural commissioners existing or that may exist in this state, and with all other persons necessary to secure the best results to horticulture in this state. He shall require reports from county horticultural commissioners in this state, and may print the same or any part thereof as he may select, either in the form of bulletins or in his annual reports or both, as he shall deem proper. He shall issue and cause to be printed and distributed to county horticultural commissioners in this state, and to such other persons as he may deem proper, bulletins or statements containing all the information best adapted to advance the interest, business and development of horticulture in this state. Such commissioner shall be deemed to be the state horticultural quarantine officer mentioned in that certain act entitled "An act for the protection of horticulture and to prevent the introduction into this state of insects, or diseases, or animals injurious to fruit or fruit trees, vines, bushes or vegetables, and to provide for a quarantine for the enforcement of this act," which became a law under constitutional provisions without the governor's approval on March 11, 1899, for the purposes of that act, and shall be empowered to perform the duties which under that act are to be performed by the state horticultural quarantine officer; provided, that in any case where it shall become necessary in the judgment of the state commissioner of horticulture to quarantine a county or district within the state against another or other county or counties or districts within the state, or to quarantine the state or a county or district of the state against another state or a foreign country or countries then it shall be necessary that said quarantine shall be made by and with the approval of the governor as provided in this chapter.

The state commissioner of horticulture may issue commissions as quarantine guardians to the county horticultural commissioners, deputies and inspectors appointed by them. [Amendment approved May 17, 1917; p. 640.]

§ 2319b. Quarantine regulations. Said commissioner may, by and with the approval of the governor, establish, maintain and enforce such quarantine regulations as may be deemed necessary to protect the nurseries, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit-pits, fruit, seeds, vegetables or other articles of horticulture, against contagion or infestation by injurious plant disease, insects, or animal or weed pests, by establishing such quarantine at the boundaries of this state or elsewhere, within the state, and he may make and enforce, with the approval of the governor, any and all such rules and regulations as may be deemed necessary to prevent any infected or infested stock, tree, shrub, plant, vine, cutting, graft, scion, bud, fruit-pit, fruit,

seeds, vegetable or other article of horticulture, from passing over any quarantine line established and proclaimed pursuant to this act, and all such articles shall, during the maintenance of such quarantine, be inspected by such commissioner or by deputies appointed in writing by said commissioner, and he and the deputies so conducting such inspection shall not permit any such article to pass over such quarantine line during such quarantine, except upon a certificate of inspection signed by such commissioner or in his name by such deputy who has made such inspection. All approvals by the governor given or made pursuant to this act shall be in writing and signed by the governor in duplicate, and one copy thereof shall be filed in the office of the secretary of state and the other in the office of said commissioner before such approval shall take effect. [Amendment approved May 17, 1917; Stats. 1917, p. 641.]

§ 2319c. **Quarantine against plant diseases, etc. May enter premises.** Upon information received by such commissioner of the existence of any infectious plant disease, insect, or animal or weed pest, dangerous to any article, or to the interests of horticulture within this state, or that there is a probability of the introduction of any such infectious plant diseases, insect or animal or weed or other pests, into this state or across the boundaries thereof, he shall proceed to thoroughly investigate the same and may establish, maintain and enforce quarantine as hereinbefore provided, with such regulations as may be necessary to circumscribe and exterminate, eradicate or control such infectious plant diseases, insects or weed or other pests, and prevent the extension thereof, and is hereby authorized to enter upon any ground or premises to inspect the same or to inspect any tree, shrub, plant, vine, cutting, graft, scion, bud, fruit-pit, fruit, seed, vegetable or other article of horticulture or implement thereof or box or package pertaining thereto, or connected therewith or that has been used in packing, shipping or handling the same, and to open any such package, and generally to do, with the least injury possible under the conditions to property or business, all acts and things necessary to carry out the provisions of this chapter; and provided, further, that no quarantine shall be established, maintained or enforced for the protection of nurseries, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit-pits, fruit, seeds, vegetables or other articles of horticulture, against contagion or infection by injurious disease, insects or pests, except by such commissioner and in the manner in this section provided. [Amendment approved May 17, 1917; Stats. 1917, p. 642.]

§ 2319d. **Pests to be reported to county horticultural commissioners. Duty of commissioner.** Upon the discovery of any infectious plant disease, injurious insects or weed or other pests, such commissioner shall immediately report the same to such quarantine guardians or county horticultural commissioners of the counties wherein such discovery is made, together with a statement as to the best known means or method for circumscribing, exterminating, eradicating or controlling the same, and shall state therein specifically what treatment or method should be applied in each case, as the matter may require, with a detailed statement or prescription as to the method of making or pro-

curing and of applying any preparation or treatment so recommended therefor, and the time and duration for such treatment, and if chemicals or articles be required other than those usually obtainable in any town, the place or places where they are most readily to be obtained; and upon the receipt of such statement by any quarantine guardian or county horticultural commissioner it shall be the duty of such quarantine guardian or county horticultural commissioner to distribute such statement in written or printed form to every person owning or having charge or possession of any orchard, nursery stock, tree, shrub, plant, fruits or other article of horticulture within their county, where there may be or is likely to be any danger to the interests of horticulture, and such a statement must be served with or be a part of the notice to be given to the owner or owners or person or persons, in possession of any orchard, nursery, tree, shrub, plant, fruits or other articles of horticulture, referred to, provided for, and required to be served in and by section two thousand three hundred twenty-two *a* of the Political Code of the State of California. [Amendment approved May 17, 1917; Stats. 1917, p. 642.]

§ 2319i. Nurserymen, etc., to register. License number. Any nurseryman, agent, jobber, person, firm or organization operating in the state of California, who ships, sells or handles nursery stock, trees, plants, shrubs or vines which are for planting or propagation purposes within the borders of this state, shall register with the state commissioner of horticulture and shall pay the same one dollar for such registration for a period of one year. The state commissioner of horticulture shall issue to each applicant a special license number, and all shipments by such licensee shall have his license number affixed to the package of nursery stock, trees, plants, shrubs or vines for planting or propagation purposes; provided, however, that an agent or agents acting as salesman for a nurseryman, jobber, person, firm or organization shall not be granted a license number but shall be required to use the license number assigned the nurseryman, jobber, person, firm or organization by whom such agent or agents are employed. [Amendment approved May 17, 1917; Stats. 1917, p. 643.]

§ 2319j. Permit to ship nursery stock, etc., into state. Any nurseryman, jobber, person, firm or organization doing business without the state of California who desires to ship nursery stock, trees, plants, vines, or shrubs into this state for planting or propagation purposes from any other state, territory or district of the United States, shall first make application to the state commissioner of horticulture for a permit to so do, filing with the application a statement of the location of the nursery, or place of business owned or operated by him or them, and an official certificate of inspection of such premises signed by the state inspector of the state in which said premises are located. Permits herein provided shall be issued by the state commissioner of horticulture upon request and without making any charge therefor whenever in his judgment such permits may be issued without endangering the horticultural interests of this state. Such permits shall bear a special number, and all shipments thereafter made by any nurseryman, jobber, person, firm or organization into the state of California must contain this number

affixed to the package of nursery stock, trees, plants, vines or shrubs shipped by him. [Amendment approved May 17, 1917; Stats. 1917, p. 643.]

§ 2319k. **Penalty.** Any person willfully refusing to comply with orders lawfully made under and pursuant to this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed five hundred dollars. [New section added May 17, 1917; Stats. 1917, p. 644.]

§ 2319 l. **Payment of moneys.** All moneys paid hereunder shall be paid by the state treasurer from moneys appropriated for the support of the officer of state commissioner of horticulture, and expenses other than the salary of the commissioner, the compensation of his deputies, secretary, quarantine officers, superintendents, assistants, and clerk, as allowed and provided by this chapter, must be certified by the said commissioner and be approved by the state board of control before being audited and paid. [New section added May 17, 1917; Stats. 1917, p. 644.]

§ 2322. **Petition to board of supervisors stating existence of infectious diseases, etc. List of eligibles. Term. Bond. Qualifications of commissioner. State board of horticultural examiners. Examinations. Appointments. County board of horticultural commissioners superseded.** Whenever a petition is presented to the board of supervisors of any county or city and county, and signed by twenty-five or more persons each of whom is a resident freeholder and possessor of an orchard, or greenhouse or nursery, or rice fields, stating that certain or all orchards or nurseries or trees or plants of any variety or rice fields, are infested with any infectious diseases, or insects of any kind injurious to fruit, fruit trees, vines or other plants or vegetables, or that there is growing therein the Russian thistle or saltwort (Salsola kali var. tragus), Johnson grass (Sorghum halepense) or other noxious weeds, or red rice, or water-grasses or other weeds or grasses detrimental to rice culture, codlin moth or other insects, ground squirrels, gophers or other animals that are destructive to trees and plants; or that serious pests, plant diseases injurious to fruit, fruit trees, vines, or other plants or vegetables, or noxious weed seed are being shipped into the county which would cause damage or be liable to cause damage to the orchards, vineyards, gardens or farms of the county or state; and praying that a commissioner be appointed by them whose duties shall be to supervise the eradication, the control, or the destruction of said insects, ground squirrels, gopher or other animals, diseases or Russian thistle or saltwort, Johnson grass or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, when growing in fields of rice or fields adjacent thereto, or in canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, as herein provided, the board of supervisors shall immediately notify the state board of horticultural examiners to furnish them a list of eligibles or competent persons as hereinafter provided, and from such list the said supervisors shall appoint a commissioner in accordance with the provisions of this chapter, whose term of officer shall be for four years

and until his successor shall be appointed and qualified and who shall give a bond in the sum of one thousand dollars for the faithful performance of his duties. The said term of office of any and all county commissioners heretofore or hereinafter appointed shall commence on the date of appointment, and be for a period of four years and until his successor shall be appointed and qualified, at the end of which period the said term shall terminate, and said term shall run with and be attached to said office. In any case where such petition has already been presented or submitted, or is on file at the time of the passage of this act, as the basis for the appointment of a board of horticultural commissioners under this chapter as heretofore existing, such petition shall continue in full force and effect and the board of supervisors of any county, or city and county with which any such petition has been filed, or in which any board of horticultural commissioners has heretofore existed, must appoint a county horticultural commissioner. The person appointed to such position must be especially qualified for his duties and must be chosen and appointed by the board of supervisors from a list of eligible persons recommended and nominated to said board as hereinafter provided. Said appointment to be made within thirty days after receipt of said list by said board of supervisors; provided, this act shall in no wise affect any other act or acts providing for the destruction of ground squirrels or applying to the proceedings thereunder but it is intended to and does provide the alternative system of proceedings for the extermination of ground squirrels and gophers referred to in this act; and it shall be within the discretion of the governing body of each county, city and county, city or town herein mentioned to provide for the destruction of ground squirrels whether under the provisions of this act or under the provisions of such other act or acts; but when any proceedings are commenced under this act, the provisions of this act, and of such amendments as may hereafter be adopted, and no other, shall apply to all such proceedings and any provision contained in any other act or acts in conflict with the provisions hereof shall be void and of no effect as to the proceedings commenced under the provisions of this act.

The said board of supervisors shall provide a suitable office for the said county horticultural commissioner, and shall furnish and equip the said office with all necessary furniture and effects for the proper discharge of the commissioner's duties. The said board of supervisors may also provide the county horticultural commissioner with all necessary field equipment for the proper discharge of the duties of his office. All expense ordered by the board of supervisors for such office, furniture and equipment, and for stenographic and other office help and expense shall be a county charge and the board of supervisors shall allow and pay the same out of the general fund of the county. A state board of horticultural examiners is hereby created consisting of the dean of the agricultural college of the University of California, the state commissioner of horticulture and the superintendent of the state insectary, who are ex-officio members of said board. They shall serve without pay and said board shall provide convenient means for the examination of candidates for appointment as horticultural commissioner. While in the performance of their duties as members of said board they shall be allowed all their necessary expenses for traveling, printing, postage and

other incidental matters to be paid out of any appropriations made for the support of the office of the state commissioner of horticulture. At least thirty days before the date of the examination of candidates for the said appointment the state board of horticultural examiners shall post or cause to be posted in three public places in said county a notice of the time and place at which such examination will be held, setting forth the conditions and subjects of said examination. At the time and place stated in said notice such examination shall be held. Said examination shall be in writing and the board of horticultural examiners may appoint one of their own number, or some other reliable, competent person to conduct the holding of such examination in each county and forward the papers of each applicant to the board for consideration. Within twenty days after the examination is held said examiners shall certify to the board of supervisors of the county, or city and county for which the examination was had, the names of such persons examined as they deem competent and qualified for the office and from the list of names so certified the supervisors shall, within thirty days after the receipt of said list of names, appoint a horticultural commissioner.

If for any reason the board of supervisors refuse or neglect to appoint a county horticultural commissioner at the expiration of the thirty days, or if they refuse or neglect to appoint a county horticultural commissioner to fill an unexpired term as elsewhere provided in this act, then the state board of horticultural examiners shall select and appoint a county horticultural commissioner from the list of qualified persons certified to the board of supervisors of that county, whose term of officer shall be for four years, and until his successor has qualified. Whenever the state board of horticultural examiners shall appoint a county horticultural commissioner as herein provided, then the county board of supervisors must provide for the payment of such appointee's compensation and expenses in the same manner as if such appointment had been made by the board of supervisors. As far as possible the board of horticultural examiners shall consult the resident horticulturists of the county in determining the responsibility and moral qualifications of candidates for appointment as commissioners and whose names they certify to the boards of supervisors of the several counties. If no person or persons present themselves for examination before said board of horticultural examiners or if after such examination no person is found qualified, the state board of horticultural examiners shall name five competent persons and certify them to the board of supervisors and from these names the board of supervisors shall, within thirty days after the receipt thereof, appoint a county horticultural commissioner, and in such event the commissioner so appointed shall hold office for the term of one year. In case of vacancy in the office of the horticultural commissioner the vacancy shall be filled first from the list of eligibles certified to the board of supervisors under the provisions of this chapter, and if there be no person named on the said list of eligible persons as in this section first above provided, then said vacancy shall be filled from the list of competent persons named as in this section last above provided, and if said vacancy shall be filled from the said list of eligibles, the said person so appointed shall hold for the balance of the unexpired term, and if the said vacancy be filled from the said list

of competent persons, the said person shall hold for the balance of the unexpired term, if the said unexpired term be not longer than one year, but if said unexpired term be longer than one year then such person shall not by virtue of such appointment hold longer than one year from the date of his appointment.

At the expiration of the term of office of the county horticultural commissioner, the state board of horticultural examiners shall submit to the board of supervisors of that county where such term shall have expired a new list of qualified persons who shall have qualified before said board of horticultural examiners by examination as provided in this section, such list to include without further examination any person who has previously qualified before the state board of horticultural examiners, and who has held office as county horticultural commissioner or deputy horticultural commissioner for a term of at least two years immediately preceding the expiration of the term of county horticultural commissioner and in the county where such term shall have expired.

Whenever elsewhere in the laws of this state reference is made to a county board of horticultural commissioners such reference must be understood to mean or relate to the county horticultural commissioner herein provided for and said county board of horticultural commissioners and the members thereof shall cease to exist; provided, that all county boards of horticultural commissioners existing at the time of the passage of this act shall continue in office, with full power as heretofore existing until the election or appointment to succeed them of a county horticultural commissioner under the provisions of this act.

Upon the petition of twenty-five resident freeholders each of whom is possessed of an orchard, greenhouse or nursery, the state board of horticultural examiners may disqualify a county horticultural commissioner for neglect of duty or malfeasance in office after a hearing of the petition. Such hearing must be held at the county seat of the county where such petition is filed, and notice in writing of the time and place of such hearing and a copy of the petition must be served on the accused horticultural commissioner at least ten days prior to the date of said hearing. At such hearing the state board of examiners shall hear such evidence as is offered and thereafter make an order, either sustaining or disqualifying the accused. In case of such disqualification the board of supervisors of the county where the county horticultural commissioner has been disqualified shall upon the request of the state board of horticultural examiners remove said commissioner of horticulture and shall immediately proceed to fill the said office for the unexpired term as in cases of vacancy as hereinbefore provided. [Amendment approved May 17, 1917; Stats. 1917, p. 627.]

§ 2322a. Duty of commissioner. Notice to destroy pests. When pests are on public property. Nonresident owners. Declared a public nuisance. Expense of abating. Lien. Power to abate. Fumigators and sprayers. Certificate. It shall be the duty of the county horticultural commissioner in each county, whenever he shall deem it necessary to cause an inspection to be made of any premises, orchards or nurseries, or trees, plants, vegetables, vines or fruits, or any fruit-

packing house, storeroom, salesroom, or any other place or article in his jurisdiction, and if found infected or infested with infectious diseases, scale insects, or codlin moth, or other insect or animal pests injurious to fruits, plants, vegetables, trees or vines, or with their eggs or larvae, or if there is found growing thereon the Russian thistle or saltwort, Johnson grass or other noxious weeds, or red rice, water-grasses or other weeds or grasses detrimental to rice culture, he shall in writing notify the owner or owners, or person or persons in charge, or in possession of the said places or orchards or nurseries, or trees or plants, vegetables, vines, or rice fields, or fields adjacent to rice fields, or canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, or fruit, or article as aforesaid, that the same are infected or infested with said diseases, insects, animals or other pests, or any of them or their eggs, or larvae, or that the Russian thistle or saltwort, Johnson grass or other noxious weeds, or red rice, water-grasses or other weeds or grasses detrimental to rice culture, is growing thereon, and require such person or persons, to eradicate, or destroy or to control, to the satisfaction of the county horticultural commissioner the said insects, animals or other pests, or their eggs or larvae, or Russian thistle or saltwort, Johnson grass or other noxious weeds or red rice, or water-grasses, or other weeds or grasses detrimental to rice culture, within a certain time to be therein specified. Said notices may be served upon the person or persons, or either of them, owning or having charge, or having possession of such infested place or orchard or nursery, or trees, plants, vegetables, vines, or fruit, or articles, as aforesaid, or premises where the Russian thistle or saltwort, Johnson grass or other noxious weeds or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, shall be growing, or upon the agents of either, by any commissioner, or by any person deputed by the said commissioner for that purpose in the same manner as a summons in a civil action. In case infectious diseases, scale insects, codlin moth, or other insect or animal pests injurious to fruit, plants, vegetables, trees, or vines, or their eggs, or larvae, are found to exist on trees or shrubs in public parks or along streets, highways, or other property subject to the control of a city or county government, or if there is found growing in any public park, street, highway or on other property subject to the control of a city or county government any Russian thistle, or saltwort, Johnson grass, or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, when said public park, street, highway, or other property subject to the control of the city or county government is adjacent to rice fields, or canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, then said notice in writing shall be served on the chairman of the governing body of said city or county, and in case the work of eradication, or of control, or of destruction of the said pests, diseases, or noxious weeds in the said public parks, streets, highways, or other public property shall be performed by the county horticultural commissioner, then the cost thereof shall become a city or county charge, as the case may be, and shall be paid from the general fund of said city or county; provided, however, that

if any such infected or infested articles, property or premises as hereinabove specified belong to any person who is not a resident of the county, and there is no person in control or possession thereof, and such nonresident person has no tenant, bailee, depositary or agent upon whom service can be had; or if the owner or owners of any such articles, property or premises cannot after due diligence be found, then such notice may be served by posting the same in some conspicuous place upon such articles, property or premises, and by mailing a copy thereof to the owner thereof at his last known place of residence, if the same is known or can be ascertained; or if not known then to the county seat of the county wherein said property is situated. Any and all such places, or orchards, or nurseries, or rice fields or fields adjacent to rice fields, or canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, or trees, plants, shrubs, vegetables, vines, fruits, or articles thus infested or infected, or premises where the Russian thistle or saltwort or Johnson grass or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, or where any squirrels, gophers or other predatory animals shall be found are hereby adjudged and declared to be a public nuisance; and whenever any such nuisance shall exist at any place within his county, and the proper notice thereof shall have been served as herein provided, and such nuisance shall not have been abated within the time specified in such notice, it shall be the duty of the county horticultural commissioner to cause said nuisance to be at once abated, by eradicating, or by controlling, or by destroying said diseases, insects, animals or other pests, or their eggs, or larvae, or Russian thistle or saltwort, or Johnson grass or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture. The expense thereof shall be a county charge, and the board of supervisors shall allow and pay the same out of the general fund of the county; any and all sum or sums so paid shall be and become a lien on the property and premises from which said nuisance has been removed or abated in pursuance of this chapter. A notice of such lien shall be filed and recorded in the office of the county recorder of the county in which the said property and premises are situated within thirty days after the right to the said lien has accrued. An action to foreclose said lien shall be commenced within ninety days after the filing and recording of said notice of lien, which action shall be brought in the proper court by the district attorney of the county in the name and for the benefit of the county making such payment or payments, and when the property is sold, enough of the proceeds shall be paid into the county treasury of such county to satisfy the lien and costs; and the overplus, if any there be, shall be paid to the owner of the property, if he be known, and if not, into the court for his use when ascertained.

Whenever a notice of eradication, or of control, or of destruction is served on any person or persons, the county horticultural commissioner may, at his option, cause a copy thereof to be filed for record in the office of the county recorder within which the said property is situated, and if the said property is encumbered with a mortgage, lien, contract,

option, bond, or other encumbrance, the said county horticultural commissioner may, at his option, cause a copy thereof to be served on the person or persons holding such encumbrance.

Whenever a lien is filed on a piece of property for the purpose of collection of such sums as have been expended in the eradication, or in the control, or in the destruction of insects, diseases, weeds, or animals found upon such property and a copy of a notice of the eradication, or of the control, or of the destruction shall have been filed in the office of the county recorder of the county wherein such property is situated, and served on the person or persons holding any such encumbrance, as hereinabove provided, then such lien shall take precedence over and be paramount to all other liens upon the said land excepting only the lien of taxes.

The county horticultural commissioner is hereby vested with the power to cause any and all such nuisances to be at once abated in a summary manner.

The county horticultural commissioner shall have power and authority to prescribe and enforce rules for the examination and qualification of fumigators or sprayers who desire to engage in such business for hire, and to issue certificates to all persons whom he shall find by examination or otherwise to be duly qualified for engaging in such work. Such certificate shall be revocable whenever the county horticultural commissioner shall deem such revocation necessary. No person shall be permitted to engage in the business of fumigating or spraying for hire within the state of California for the purpose of controlling or eradicating plant pests or diseases, who has not first secured a certificate in the manner herein provided. [Amendment approved May 17, 1917; Stats. 1917, p. 631.]

§ 2322c. Record and report of commissioner. It is the duty of the said county horticultural commissioner to keep a record of his official doings, and to make a report to the state commissioner of horticulture on or before the first day of October of each year of the condition of the horticultural interests in their several districts, what is being done to eradicate, or to control, or to destroy insect pests, also as to disinfecting, and as to quarantine against insect and other pests and diseases, and as to the carrying out of all laws relative to the greatest good of the horticultural interests, and to furnish from time to time to the state commissioner of horticulture such other information as he may require. Said state commissioner of horticulture may publish such reports in bulletin form or may incorporate so much of the same in his annual report as may be of general interest. It is also made the duty of the county horticultural commissioner to advise himself with reference to all infectious diseases, scale insects or codlin moth or other pests injurious to fruit, plants, vegetables, trees or vines, and with their eggs or larvae and all noxious weeds or grasses or animal pests that may exist in his county or be likely to exist therein and for the purpose of so advising himself and of eradicating and preventing injury from such causes, and for the purpose of advising himself on the best and most efficacious methods of performing his duties and conducting his office

he shall attend the annual meeting of the state association of county horticultural commissioners, and such other meetings as the state commissioner of horticulture shall require, and he shall be paid his per diem compensation and traveling expenses while so engaged, or while on any service that requires him to go outside the county when the performance of such service has been authorized by the board of supervisors, or the state commissioner of horticulture. [Amendment approved May 17, 1917; Stats. 1917, p. 634.]

§ 2322d. Salaries of inspectors, deputy and commissioner. The salary of inspectors working under the county horticultural commissioner is three dollars and fifty cents per day, and the necessary traveling expenses. The salary of the deputy shall be five dollars per day when in the actual performance of his duties, and the necessary traveling expenses. In the case of the commissioner himself his compensation shall be fixed by the board of supervisors, either at not less than one thousand eight hundred dollars per year, or at not less than six dollars per day when actually engaged in the performance of his duties. He shall also be allowed the necessary traveling expenses incurred in the discharge of his regular duties as prescribed in this chapter. [Amendment approved May 17, 1917; Stats. 1917, p. 634.]

§ 2322f. Notice of arrival of imported nursery stock, etc. Any person, persons, firm or corporation, who shall receive, bring, or cause to be brought into any county or locality of the state of California from another county or locality within said state any nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit or vegetables, or seed, for the purpose of planting or propagating the same, or any or all such shipments of nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit or vegetables, or seed or containers thereof or other orchard appliances, which the county horticultural commissioner or the state commissioner of horticulture may consider liable to be infested or infected with dangerous insect pests or plant diseases or noxious weed seeds and which if so infested or infected would constitute a dangerous menace to the orchards, farms and gardens of the county or state, shall immediately after the arrival thereof notify the county commissioner of horticulture, his deputy, or nearest inspector of the county in which such nursery stock, or fruit or vegetables, or seed, are received, of their arrival, and hold the same without unnecessarily moving or placing such articles where they may be harmful, for immediate inspection by such county commissioner of horticulture, his deputy, inspector, or deputy quarantine officer or guardian. [New section added May 17, 1917; Stats. 1917, p. 635.]

§ 2322g. Marking of shipments. Manifests. Each carload, case, package, crate, bale, or bundle of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed, imported or brought into any county of the state of California from another county within said state for planting or propagation purposes, shall have plainly and legibly marked thereon in a conspicuous manner and place,

the name and address of the shipper, owner or owners, or person forwarding or shipping same, and also the name of the person, firm or corporation to whom the same is forwarded or shipped, or his or its responsible agents. A manifest showing the contents of each shipment, also the name of the locality where the contents were grown and a statement of the contents therein shall be made to the county horticultural commissioner having jurisdiction at the point of destination when shipment is made. [New section added May 17, 1917; Stats. 1917, p. 636.]

§ 2322h. **Infected shipments public nuisance. Shipment disinfected. When returned or destroyed. When disinfected.** When any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed, imported or brought into any county or locality of the state of California from another county or locality within such state, is found to be infested or infected with any species of injurious insects, or their eggs, larvae or pupae, or other animal or plant diseases or noxious weed seeds which would cause damage or be liable to cause damage to the orchards, vineyards, gardens or farms of any county of the state of California, all material in shipment found to be so infested or infected shall be deemed a public nuisance, shall be refused delivery, and shall be immediately returned to the point of shipment or destroyed, at the option and expense of the owner or owners, or his or their responsible agents. The remainder of such shipment shall be disinfected under the directions of the county horticultural commissioner making such inspection and in a manner as provided for in section two thousand three hundred twenty-two *i* of this act; provided, however, that when any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed or their containers or orchard appliances imported or brought into any county or locality of the state of California from another county or locality within said state, is found to be infested or infected with any species of injurious insects, or their eggs, larvae, or pupae, or other injurious animal or plant diseases or noxious weed seeds not known to exist in the county or locality in which said shipment is delivered, or if there is reasonable cause to presume it may be so infested or infected the entire shipment shall be refused admittance and shall be immediately returned to point of shipment or destroyed at the option and expense of the owner or owners, or his or their responsible agents; provided, further, that when any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed, imported or brought into any county or locality of the state of California from another county or locality within said state, is found to be infested or infected with any species of injurious insects or their eggs, larvae or pupae, or plant diseases or noxious weed seeds which are of common occurrence in the county or locality into which it is shipped or transported, and which may be exterminated by such treatment as may be prescribed in section two thousand three hundred twenty-two *i* of this act and under the direction of the county horticultural commissioner of the county in which it is received, the same may be disinfected or cleaned at the expense of the owner or

owners or his or their responsible agents, in a manner satisfactory to the county horticultural commissioner making the inspection, and after such treatment the shipment may be delivered to the consignee. Any and every provision of this act relating to shipment or transportation of nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit, or vegetables, or seed from one county of the state of California to another county of said state, shall apply equally and identically to such shipment or transportation of such articles from one locality to another locality within the same county of said state. [New section added May 17, 1917; Stats. 1917, p. 636.]

§ 2322i. **Names of insects, etc., promulgated. Advice on treatment.** The state commissioner of horticulture is hereby empowered and directed from time to time to ascertain and determine, and promulgate the names and descriptions of insects, animals and diseases that may cause injury to orchards, vineyards, gardens, fruit or nut bearing or ornamental trees, vines, plants, nursery stock, fruit, nuts, vegetables or seed, and to ascertain, and advise the proper methods of treatment, disposal and disinfection of nursery stock, trees, vines, plants, fruit, nuts, vegetables or seed, and the containers thereof which may be found to be infested or infected with, or which may have been exposed to infection or infestation by any such insect or its eggs, larvae or pupae, or any such animal or plant diseases. [New section added May 17, 1917; Stats. 1917, p. 637.]

§ 2322j. **Penalty.** Any person, persons, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not exceeding six months or by a fine not exceeding five hundred dollars, or by both fine and imprisonment. [New section added May 17, 1917; Stats. 1917, p. 638.]

§ 2643. **Powers of supervisors over roads.** [See another section 2643 adopted at the same session of the legislature, post.] The boards of supervisors of the several counties of the state shall have general supervision over the roads within their respective counties. They must by proper order:

1. **Survey, etc.** Cause to be surveyed, viewed, laid out, recorded, opened, and worked, such highways as are necessary to public convenience as in this chapter provided.

2. **Record highways.** Cause to be recorded as highways all highways which have become such by usage, dedication or abandonment to the public, or by any other means provided by law, and to prepare and record proper deeds and titles thereto.

3. **Abandonment of ways.** Abolish or abandon such as are not necessary.

4. **Right of way.** Acquire the right of way over private property for the use of public highways, and for that purpose require the district attorney to institute proceedings, under title seven, part three, of the

Code of Civil Procedure, and to pay therefor from the general road fund or the district road fund of the county.

5. **Road tax.** Levy a property tax for road purposes.

6. **Guide-posts.** Cause to be erected and maintained at the intersections and crossings of highways, guide-posts, properly inscribed.

7. **Apportionment of road tax.** Cause the road tax collected each year to be apportioned to the several road districts entitled thereto, and kept by the county treasurer in separate funds.

8. **Audit claims.** Audit all claims on the funds set apart for highway purposes, and specify the fund, or funds, from which the whole or any part of any claim, or claims, must be paid.

9. **Gates.** In their discretion, they may provide for the establishment of gates on the public highways, in certain cases, to avoid the necessity of building road fences, and prescribe rules and regulations for closing the same, and penalties for violating said rules; provided, that the expense for the erection and maintenance of such gates shall in all cases be borne by the party or parties for whose immediate benefit the same shall be ordered.

10. **Sprinkling. Roads may be paid for out of general fund.** For the purpose of sprinkling the roads in any part of the county with oil or water, the board of supervisors may erect and maintain waterworks and oil tanks and reservoirs, and for such purposes may purchase or lease real or personal property. The costs of such waterworks, oil tanks and reservoirs and the sprinkling of said roads with oil or water may be charged to the general county fund, the general road fund, or the district fund of the district or districts benefited.

Whenever it is determined by a four-fifths vote of the board of supervisors of any county that the public convenience and necessity demand the acquisition or construction of a new road in excess of three miles in length or the grading, regrading, paving or macadamizing of any existing road, in excess of three miles in length, and that the cost of such new road when acquired and constructed, or the cost of grading, regrading, paving or macadamizing such existing road, will be too great to pay out of any of the road funds of the county, the board of supervisors may, by resolution passed by a four-fifths vote of said board, determine to acquire or construct such new road, or grade, or regrade, pave, or macadamize such existing road, and if the cost of such new road when constructed, or the cost of grading, regrading, paving or macadamizing such existing road, when completed, shall exceed five thousand dollars, such cost may be charged to the general county fund, the general road fund or the district fund of the district or districts benefited.

11. **Surveyor to submit estimates. Advertising for bids. Form of advertisement. Posting of advertisement. Contractor to pay surveyor. Work costing over five hundred dollars.** Whenever it shall be determined that any grading, graveling, macadamizing, ditching, sprinkling, or other work upon highways is necessary, and is to be done, and where

the estimated cost of such work amounts to one thousand dollars, the board of supervisors must, by proper order, direct the county surveyor to make definite surveys of the proposed work, and to prepare profiles and cross-sections thereof, and to submit the same with the estimate of the amount or amounts of work to be done, and cost thereof, and with specifications thereof. Said report shall be prepared in duplicate, one copy to be filed in the surveyor's office, and the other to be filed with the clerk of the board of supervisors.

The board upon receipt of such report must advertise for bids for the performance of the work specified. Such advertisement for bids must be published for two weeks in two newspapers, one published at the county seat and the other at a point nearest the proposed work.

Such advertisement must be in the following form:

"Office of the clerk of the board of supervisors,

—— county, ——, 19—.

Sealed bids will be received by the clerk of the board of supervisors of —— county, at his office, until —— o'clock — M., ——, ——, 191—, for ——, on ——, in —— district, in —— county.

Specifications for this work are on file in the office of the said board, to which bidders are hereby referred.

—— ——,

Clerk of the board of supervisors of the county of ——."

And such advertisement must also be posted, for at least two weeks prior to the opening of the bids for the proposed work, in three conspicuous places in the district or districts in which the proposed work lies, and one at the site of the proposed work. Bids must be inclosed in sealed envelope, addressed to the clerk of the board of supervisors, and must be indorsed, "Bids for ——," and must be delivered to said clerk prior to the hour specified in the advertisement. The board shall publicly open and read such bids as may be submitted, and must award the contract for the work to the lowest bidder; unless it shall appear to the board that the bids are too high, and the work can be done more cheaply by day labor, in which case the bids must be rejected, and the work ordered done by the road commissioner, or commissioners, in whose district or districts the work may be situated. In case the work shall be let by contract, monthly or quarterly payments may be made thereon upon the receipt of a certified estimate by the county surveyor of the amount of work done during the preceding month or quarter, to the extent of seventy-five per cent of the value of said work, the remaining twenty-five per cent being due on the completion of the work.

The services of the surveyor in making such partial estimates must be paid for by the contractor. Upon the completion of the work, the county surveyor must examine the same, and if completed in accordance with the specifications thereof, he must submit to the board of supervisors a certificate over his signature and official seal to the effect that such work by the contractor therefor, has been completed in accordance with the specifications therefor, and recommending its acceptance.

The board shall thereupon audit the same and direct its payment out of the proper fund or funds.

Whenever the estimated cost of such grading, graveling, macadamizing, ditching, sprinkling, or other work exceeds five hundred dollars and is less than one thousand dollars, the board of supervisors must cause the same to be performed by contract awarded to the lowest bidder, in the same manner as where the estimated cost amounts to one thousand dollars, unless such board shall by resolution passed by a four-fifths vote, determine that it is to the public advantage and convenience not to do such work by contract; in which event, such work shall be done by day labor under the supervision of the county surveyor and the supervisors of the district wherein the work is done.

12. **Side paths.** In their discretion, they may set apart on any public road or highway a strip of land for a side path, and make an order designating the width of such path and cause the lines separating the path from the road to be located and marked by stakes or posts, placed at such distances apart as they shall deem proper. After said paths have been set apart, and the lines separating the same from the road have been located and marked, as aforesaid, the use of the same is hereby restricted to pedestrians and riders of bicycles and other vehicles propelled solely by the power of the rider.

Expense of erecting and maintaining such path may be charged to the general county fund, the general road fund, and the district fund of the district or districts benefited. [Amendment approved April 25, 1917; Stats. 1917, p. 196.]

§ 2643. **Power of boards of supervisors over roads.** [See another section 2643 adopted at the same session of the legislature, ante.] The boards of supervisors of the several counties of the state shall have general supervision over the roads within their respective counties. They must by proper order:

1. Cause to be surveyed, viewed, laid out, recorded, opened, and worked, such highways as are necessary to public convenience, as in this chapter provided.

2. Cause to be recorded as highways all highways which have become such by usage, dedication or abandonment to the public, or by any other means provided by law, and to prepare and record proper deeds and titles thereto.

3. Abolish or abandon such as are not necessary.

4. Acquire the right of way over private property for the use of public highways, and for that purpose require the district attorney to institute proceedings, under title seven, part three, of the Code of Civil Procedure, and to pay therefor from the general road fund or the district road fund of the county.

5. Levy a property tax for road purposes.

6. Cause to be erected and maintained, at the intersections and crossings of highways, guide-posts, properly inscribed.

7. Cause the road tax collected each year to be apportioned to the several road districts entitled thereto, and kept by the county treasurer in separate funds.

8. Audit all claims on the funds set apart for highway purposes, and specify the fund, or funds, from which the whole or any part of any claim, or claims, must be paid.

9. In their discretion, they may provide for the establishment of gates on the public highways, in certain cases, to avoid the necessity of building road fences, and prescribe rules and regulations for closing the same, and penalties for violating said rules; provided, that the expense for the erection and maintenance of such gates shall in all cases be borne by the party or parties for whose immediate benefit the same shall be ordered.

10. For the purpose of sprinkling the roads in any part of the county with oil or water, the board of supervisors may erect and maintain waterworks and oil tanks and reservoirs, and for such purposes may purchase or lease real or personal property. The costs of such waterworks, oil tanks and reservoirs and the sprinkling of said roads with oil or water may be charged to the general county fund, the general road fund, or the district fund of the district or districts benefited.

Whenever it is determined by a four-fifths vote of the board of supervisors of any county that the public convenience and necessity demand the acquisition or construction of a new road in excess of three miles in length or the grading, regrading, paving or macadamizing of any existing road, in excess of three miles in length, and that the cost of such new road when acquired and constructed, or the cost of grading, regrading, paving or macadamizing such existing road, will be too great to pay out of any of the road funds of the county, the board of supervisors may, by resolution passed by a four-fifths vote of said board, determine to acquire or construct such new road, or grade, or regrade, pave, or macadamize such existing road, and if the cost of such new road when constructed, or the cost of grading, regrading, paving or macadamizing such existing road, when completed, shall exceed three thousand dollars, such cost may be charged to the general county fund, the general road fund or the district fund of the district or districts benefited.

11. Whenever it shall be determined that any grading, graveling, macadamizing, ditching, sprinkling, or other work upon highways is necessary, and is to be done, and where the estimated cost of such work amounts to one thousand dollars, the board of supervisors must, by proper order, direct the county surveyor to make definite surveys of the proposed work, and to prepare profiles and cross-sections thereof, and to submit the same with the estimate of the amount or amounts of work to be done, and cost thereof, and with specifications thereof. Said report shall be prepared in duplicate, one copy to be filed in the surveyor's office, and the other to be filed with the clerk of the board of supervisors. The board upon receipt of such report must advertise for bids for the performance of the work specified. Such advertisement for bids must be published prior to the day fixed for the opening of bids, for at least once a week for a period of two weeks in a newspaper of general circulation printed and published in said county.

Such advertisement shall be in substantially the following form:

Office of the clerk of the board of supervisors.

—— county, ——, 19—.

Sealed bids will be received by the clerk of the board of supervisors of —— county, at his office, until —— o'clock — M., —— —— 19—, for ——, on ——, in —— district, in —— county.

Specifications for this work are on file in the office of the said board, to which bidders are hereby referred.

—— ——,

Clerk of the board of supervisors of the county of ——.

Bids must be inclosed in sealed envelope, addressed to the clerk of the board of supervisors, and must be indorsed, "Bids for ——," and must be delivered to said clerk prior to the hour specified in the advertisement. The board shall publicly open and read such bids as may be submitted, and must award the contract for the work to the lowest bidder; unless it shall appear to the board that the bids are too high, and the work can be done more cheaply by day labor, in which case the bids must be rejected, and the work ordered done by the road commissioner, or commissioners, in whose district or districts the work may be situated. In case the work shall be let by contract, monthly or quarterly payments may be made thereon upon the receipt of a certified estimate by the county surveyor of the amount of work done during the preceding month or quarter, to the extent of seventy-five per cent of the value of said work, the remaining twenty-five per cent being due on the completion of the work. Upon the completion of the work, the county surveyor must examine the same, and if completed in accordance with the specifications thereof, he must submit to the board of supervisors a certificate over his signature and official seal to the effect that such work by the contractor therefor, has been completed in accordance with the specifications therefor, and recommending its acceptance. The board shall thereupon audit the same and direct its payment out of the proper fund or funds.

Whenever the estimated cost of such grading, graveling, macadamizing, ditching, sprinkling, or other work exceeds five hundred dollars and is less than one thousand dollars, the board of supervisors must cause the same to be performed by contract awarded to the lowest bidder, in the same manner as where the estimated cost amounts to one thousand dollars, unless such board shall by resolution passed by a four-fifths vote, determine that it is to the public advantage and convenience not to do such work by contract, in which event, such work shall be done by day labor under the supervision of the county surveyor and the supervisors of the district wherein the work is done.

12. In their discretion, they may set apart on any public road or highway a strip of land (for a side path), and make an order designating the width of such path and cause the lines separating the path from the road to be located and marked by stakes or posts, placed at such distances apart as they shall deem proper. After said paths have been set apart, and the lines separating the same from the road have been located and marked, as aforesaid, the use of the same is hereby re-

stricted to pedestrians and riders of bicycles and other vehicles propelled solely by the power of the rider. Expense of erecting and maintaining such path may be charged to the general county fund, the general road fund, and the district fund of the district or districts benefited. [Amendment approved May 26, 1917; Stats. 1917, p. 1208.]

§ 2646. **Highways in charge of supervisors.** Whenever any of the highways of a county have been constructed or improved under the provisions of an act entitled "An act providing for the laying out, constructing, straightening, improvement and repair of main public highways in any county, providing for the voting, issuing and selling of county bonds and the acceptance of donations to pay for such work and improvements, providing for a highway commission to have charge of such work and improvements, and authorizing cities and towns to improve the portions of such highways within their corporate limits and to issue and sell bonds therefor," approved March 19, 1907, and all acts amendatory thereof or supplementary thereto, the board of supervisors of said county shall have the charge of the maintenance and repair of said highways and may employ a superintendent or inspector to have charge of the repairing and maintenance of all of said roads under the orders and direction of said board, and may employ such workmen and purchase such materials, equipments, tools and appliances as may be necessary to maintain said roads and keep them in repair, the cost of such maintenance and repair to be paid out of the general fund of the county. Nothing herein contained shall prevent the board from having any such work of repair or maintenance done by contract under the provisions of section two thousand six hundred forty-three, if they deem it advisable. At the option of the board of supervisors, expressed by resolution, the provisions of this section shall apply to such highways of the county as may be specified in such resolution, constructed or improved under the provisions of subdivision ten of section two thousand six hundred forty-three of the Political Code, and paid for out of the general fund of said county. [Amendment approved April 16, 1917; Stats. 1917, p. 137.]

§ 2697. **Petition to abandon highways.** Any ten freeholders, two of whom must be residents of the road district in which some part of the property affected is situated, and who are taxable therein for road purposes, may petition the board of supervisors in writing to vacate, discontinue, abandon and abolish any public highway, road, street, avenue, alley, lane or place, or any part of any such road, street, avenue, alley, lane or place. [Amendment approved March 23, 1917; Stats. 1917, p. 24.]

§ 2745. **Municipal corporation may be included in road division.** Any portion of a county not contained in a permanent road division may be formed into a permanent road division under the provision of this act, and when so formed shall have the powers herein enumerated and such as may hereafter be conferred thereon by law; provided, that a municipal corporation for the purpose of this act shall not be considered a permanent road division and may be included therein. [Amendment approved April 19, 1917; Stats. 1917, p. 144.]

§ 2979a. Duties of coroner regarding contagious diseases. Duties of physician. Duties of state board of health. It is the duty of each coroner, and of every county, city and county, city or town health officer, knowing or having reason to believe, that any case of cholera, plague, yellow fever, malaria, leprosy, diphtheria, scarlet fever, smallpox, typhus fever, typhoid fever, paratyphoid fever, anthrax, glanders, epidemic cerebrospinal meningitis, tuberculosis, pneumonia, dysentery, erysipelas, uncinariasis or hookworm, trachoma, dengue, tetanus, measles, German measles, chickenpox, whooping cough, mumps, pellagra, beriberi, Rocky Mountain spotted (or tick) fever, syphilis, gonococcus infection, rabies, poliomyelitis, or any other contagious or infectious disease exists, or has recently existed, within the city, county, city and county, town, or township of which he is such officer, to take such measures as may be necessary to prevent the spread of such disease, and to report at once in writing such cases to the secretary of the state board of health at Sacramento.

It is also the duty of every attending or consulting physician, nurse, or other person having charge of or caring for any person afflicted with any of said contagious diseases, to report at once in writing to the local health officer the nature of the disease, the name of the person afflicted and the place of his or her confinement; provided, however, that syphilis and gonococcus infection shall be reported by office number only; provided, further, that official records of tuberculosis cases shall be for official use only and not open to private inspection.

The state board of health, or its secretary, upon being informed of any such contagious or infectious disease, may thereupon take such measures as may be necessary to ascertain the nature of such disease and prevent the spread of such contagion, and to that end, said state board of health, or its secretary, may, if deemed proper, take possession or control of the body of any living person, or the corpse of any deceased person, and may direct and take such means as may be deemed expedient to arrest or prevent the further spread of such disease. [Amendment approved April 24, 1917; Stats. 1917, p. 171.]

§ 2984. Rules of state board of health: duty of local officers. Reports to state board. Registration of deaths, enforcement of act for. It shall be the duty of the health officer of each municipality and incorporated town within this state to enforce within such municipality and incorporated town all orders, rules, and regulations concerning health and quarantine, and the registration, certification, and reporting of births, marriages and deaths as prescribed or directed by the state board of health, and it shall be the duty of such health officer to report in writing to the state board of health at such times as said board shall require, all infectious, contagious and communicable diseases in man or beast which shall come to his knowledge, upon blanks furnished by the state board of health. Said health officer, in cases of local epidemic of disease shall report to the state board of health all facts concerning the disease and the measures taken to prevent or abate its spread, infection, or contagion. Every such health officer shall strictly observe and enforce within such municipality or incorporated town the provisions of "An

act for the registration of deaths, the issuance and registration of burial and disinterment permits and the establishment of registration districts in counties, cities and counties, cities and incorporated towns, under the superintendence of the state bureau of vital statistics and prescribing the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and fixing penalties for the violation of this act," approved March 18, 1905, and also the provisions of chapter three of title seven of part three (sections three thousand seventy-four to three thousand eighty-four) of the Political Code of the state of California relating to the registration, certification and reporting of marriages, births, and deaths, and shall promptly report to the state board of health all violations of the state health laws and of the law relating to the registration, certification and reporting of marriages, births and deaths which shall come to his knowledge. [Amendment approved April 24, 1917; Stats. 1917, p. 172.]

§ 3061. **Health officer appointed. Duties.** The board of trustees, council or other legislative body, by whatever name known, of any incorporated city or town of this state, shall by ordinance adopt for the regulation of sanitary matters within the city or town, such rules and regulations relative thereto as are necessary and proper, and not contrary to law, and shall supervise all matters pertaining to the sanitary condition of the city or town; provided, that no part of this section shall be construed to prevent the appointment by the board or council or other legislative body of a board of health which shall be advisory to the health officer.

Every such board or council or other legislative body shall appoint a health officer who shall receive for his services such compensation as may be determined by said appointing body and shall hold office at its pleasure. Immediately after the appointment of the health officer the board or council shall notify the secretary of the state board of health of the appointment and the name and address of the appointee.

Each health officer of an incorporated city or town must:

First—Enforce and observe—

(a) All orders and ordinances of the board of trustees or council of his city or town pertaining to health and sanitary matters.

(b) All orders, quarantine regulations and rules prescribed by the state board of health.

(c) All statutes relating to the public health and to vital statistics.

Second—Report to the secretary of the state board of health at Sacramento at such times as the state board may require:

(a) The sanitary condition of his locality.

(b) The number of deaths, with the cause of each, as near as can be ascertained, within its jurisdiction during the preceding month.

(c) The presence of epidemic or other dangerous, contagious, or infectious diseases and such other matters within his knowledge or jurisdiction as the state board may require. [Amendment approved April 24, 1917; Stats. 1917, p. 171.]

§ 3062. **Supervisors may appoint health officer in lieu of board.** [Repealed by act approved April 19, 1917; Stats. 1917, p. 144.]

§ 3064. Failure to provide health officer. The board of supervisors must fix the salary or compensation of health officers, and provide for the expenses of enforcing the provisions of this article. If the board of supervisors or board of trustees, council, or other corresponding board of any incorporated town, neglects to provide a health officer by the first day of July, eighteen hundred and eighty-seven, the state board of health may direct the district attorney of the county to begin an action against such board of supervisors, or board of trustees, or corresponding board, to compel the performance of their duty, or may appoint a health officer for such town or city, and the expenses of such health officer shall be a charge against the incorporated city or town for which such appointment shall be made; and when the appointment is made for unincorporated towns, the expenses of the health officer are a charge against the county. [Amendment approved April 24, 1917; Stats. 1917, p. 173.]

§ 3074. Bureau of vital statistics. Duty of state registrar. The state board of health shall maintain, at the city of Sacramento, a bureau of vital statistics for the complete and proper registration of births, marriages and deaths, for legal, sanitary and statistical purposes, which bureau shall be under the supervision of the state registrar of vital statistics. The duty of the state registrar of vital statistics shall be to promulgate and enforce all rules and regulations required to carry out the provisions of this chapter and that may be adopted from time to time by the state board of health. [Amendment approved April 5, 1917; Stats. 1917, p. 41.]

§ 3075. Employees of state board of health. There shall be a clerk of the state board of health who shall receive an annual salary of one thousand six hundred dollars, such salary to be paid in the same manner and at the same time as salaries of state officers. The state board of health may employ and fix the compensation of other additional clerical and professional assistants, but such compensation shall be paid from its fund for contingent expenses provided for in the general appropriation act. [Amendment approved May 14, 1917; Stats. 1917, p. 436.]

§ 3366. Power to impose business license tax. Boards of supervisors of the counties of the state, and the legislative bodies of the incorporated cities and towns therein, shall, in the exercise of their police powers, and for the purpose of regulation, as herein provided, and not otherwise, have power to license all and every kind of business not prohibited by law, and transacted and carried on within the limits of their respective jurisdictions, and all shows, exhibitions and lawful games carried on therein, to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise; provided, that every honorably discharged soldier, sailor, or marine of the United States or confederate states who has served in the Civil War, any Indian War, the Spanish-American War, any Philippine insurrection or in the Chinese relief expedition, who is physically unable to obtain a livelihood by manual labor, and who shall be a qualified elector of the state of California, shall have the right to distribute circulars, and to hawk, peddle, and vend any goods, wares or merchandise, except spirit-

uous, malt, vinous or other intoxicating liquor, without payment of any license tax or fee whatsoever, whether municipal, county or state, and the board of supervisors or legislative body shall issue to such soldier, sailor or marine, without cost, a license therefor; provided, however, no license can be collected or any penalty for the nonpayment thereof enforced against any commercial traveler whose business is limited to the goods, wares, and merchandise sold or dealt in in this state at wholesale.

§ 2. **Construction of.** This act shall not be deemed to repeal any act vesting municipal corporations with power to license for revenue purposes. [Amendment approved May 5, 1917; Stats. 1917, p. 279.]

§ 3446. **Petition for formation of reclamation district.** Whenever the holders of title or evidence of title representing one-half or more of any body of swamp and overflowed, salt marsh, or tide-lands, or other lands subject to flood or overflow, susceptible of one mode of reclamation, desire to reclaim the same, they may present to the board of supervisors of the county in which the lands, or the greater part thereof are situated, at a regular meeting of the board, a petition setting forth that they propose to form a district for the reclamation of the same. Said petition must also set forth the following:

(1) A description of the exterior boundaris of the proposed district.

(2) The total number of acres situate within the said exterior boundaries.

(3) The names of each and every owner of record of real property situate within the said exterior boundaries.

(4) The county or counties within which said proposed district lies, and if in more than one county, the number of acres of said district in each county. [Amendment approved May 26, 1917; Stats. 1917, p. 1191.]

§ 3447. **Verification and publication.** The petition must be verified by the affidavit of one of the petitioners, and must be published for two weeks preceding the hearing thereof in some newspaper of general circulation published in the county in which the greater part of the lands are situated, together with a notice of the time when said petition will be presented to the board of supervisors; an affidavit of publication must be filed with such petition. [Amendment approved May 26, 1917; Stats. 1917, p. 1191.]

§ 3449. **Hearing. Petition approved.** If the board of supervisors find, on the hearing of the petition, that its statements are correct, they must make an order approving the same. If it is shown that any land has been improperly included in the proposed district, they must, in their order, exclude the same therefrom. If the board shall conclude that any lands susceptible of the same mode of reclamation have been improperly omitted from the proposed district, and the owners thereof shall not have appeared at such hearing, the board of supervisors shall by order continue the further hearing of the said petition, and direct that notice shall be given to all such nonappearing landowners, requiring them to appear before said board, and show cause, if any they have, why their lands should not be included in the proposed district. Said notice must

be given either by publication in the same manner as the original petition and for the same period or by personal service thereon of each such nonappearing land owner. If such notice be given by personal service, such service must be made at least three days prior to the date fixed for said further hearing. Proof of publication of the said notice or of any such personal service shall be filed with the clerk of said board on or before the day to which such continuance is had.

The board may grant further continuances, by order entered upon its minutes to the end that a full hearing may be had. Upon the final hearing of said matter the board shall make an order approving the said petition, as originally presented, or in a modified form. Such order shall describe the exterior boundaries of the district, as determined by the board, and shall be indorsed upon or attached to the petition, and be signed by the chairman and attested by the clerk of the board. [Amendment approved May 26, 1917; Stats. 1917, p. 1192.]

§ 3452. **By-laws for government of district.** The owners of land embraced in the district, or those owning a majority in acreage thereof, must adopt by-laws, not inconsistent with the laws of the state, for the government and control of the affairs of the district. The by-laws thus adopted must be signed by the holders of certificates of purchase, patents, or other evidences of title, representing a majority in acreage of the land embraced in the district, and must be by them filed for record with the county recorder of the county, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to reclamation. By-laws thus adopted may be amended at any time in the same manner that the original by-laws were adopted. [Amendment approved May 26, 1917; Stats. 1917, p. 1192.]

§ 3453. **Election of district trustees. Proceeding to determine legality of district. No proceeding against district existing five years.** After the formation of the district and the adoption of by-laws the board of supervisors of the county where the greater part of the district is situated, on the application of any land owner of the district, must call an election in compliance with the provisions of section three thousand four hundred ninety-one of this code, at which election there must be elected under and in pursuance of the provisions of said section three thousand four hundred ninety-one, three eligible persons, each of whom must be the owner of record of land within the said district or a duly authorized representative of a corporation which is an owner of record; who shall constitute, when elected and qualified, the board of trustees of the district, for the management of the affairs thereof, and who shall hold office until their successors are elected and qualified under and in pursuance of the provisions of said section three thousand four hundred ninety-one. From and after the election of said trustees said district shall be deemed organized and shall have power to sue and be sued.

The trustees of any reclamation district may commence a proceeding in the superior court of the county where the greater portion of the district is situated to determine the legality of the existence of such district. The complaint in such proceedings shall describe the district by number and the exterior boundaries thereof, and shall contain a prayer that such district be adjudged a legal reclamation district. The summons in such

proceeding shall be served by publishing a copy thereof for two weeks in some newspaper of general circulation published in each county where any part of said district is situated. Within thirty days after the last publication of said summons any person who may be interested may appear and answer said complaint, in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed, the court must render judgment as prayed for in the complaint. If any answer shall be filed, the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has for five years prior to the commencement of such proceeding been prosecuting or maintaining its works of reclamation in good faith. The proceeding under this section is hereby declared to be a proceeding in rem, and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California.

No proceeding in quo warranto, nor any similar action, or proceeding, shall be maintained in the name of the people of the state of California against any reclamation district that shall have continuously for five years next preceding the commencement of such proceeding been acting as such and prosecuting or maintaining its works of reclamation in good faith; provided, that this provision shall not affect proceedings that are now pending. [Amendment approved May 26, 1917; Stats. 1917, p. 1192.]

§ 3454. **Powers of trustees.** A. Said board of trustees shall have powers and duties as follows, to wit:

(1) To keep an office in or near the district for the transaction of the business thereof, and, the books, maps, papers, records, contracts, and all other documents pertaining to the affairs of the district must be open to inspection at all times by any person interested.

(2) **President.** To elect one of its members president of said board of trustees.

(3) **Secretary.** To elect one of its members or any other person secretary of said board of trustees. It shall be the duty of the secretary to have charge of the office of the board of trustees and to keep the minutes of all meetings and to attest all documents requiring the signature of the president and to keep true and accurate accounts of all expenditures made in behalf of said district, which accounts, and all contracts that may be made by the said board of trustees shall be open to the inspection of the board of supervisors and every person interested.

(4) **Money from reclamation board.** To receive from the reclamation board any money allowed on account of uncollected assessments previously levied on lands purchased by said board for rights of way, and to distribute said money among the land owners of said district in proportion to their payments on the last assessment-roll or place the same in the county treasury to the credit of said district.

(5) **Revolving fund.** To create by order duly entered in the minutes of the board of trustees a revolving fund. No warrant for creation or replenishment of this fund shall be paid by the county treasurer unless a bond in double the amount of said fund, signed by the members of the

board of trustees with sureties and conditioned as security for the safety and proper disbursement of said fund, approved by the board of supervisors, shall be on file with the county treasurer. Said fund shall be disbursed by checks or drafts, signed by at least two members of the board of trustees, or some person by unanimous vote of the board of trustees authorized to do so. The board of trustees shall within thirty days after any payment from this fund file the vouchers therefor in the office of the county treasurer retaining a duplicate thereof in the office of the secretary of the board of trustees. The board of trustees shall have authority by order entered in the minutes of said board to issue warrants for the creation and replenishment of said fund. No warrant for the replenishment of said fund shall be approved by the board of supervisors or paid by the county treasurer, except to the extent that proper vouchers for previous legal disbursements from said fund have been filed with the county treasurer as hereinbefore provided. Said fund shall not exceed the sum of two thousand dollars. The order creating said revolving fund must receive the unanimous vote of the board of trustees.

Any land owner within the district may maintain an action for the benefit and in behalf of the reclamation district in the superior court of the county in which the district, or any part thereof is situated against any member or members of the board of trustees for any improper disbursement of the funds of the district made with his or their consent and also against the members of the board of trustees and their sureties upon the said bond for any improper disbursement from said revolving fund.

(6) **Engineers, etc.** To employ engineers and others to survey, plan, locate and report on the works necessary for the reclamation of the lands of the district, and estimate the cost thereof; thereafter, at any time, modify or change such original plan or plans, or adopt new, supplemental, or additional plan or plans, when, in its judgment, the same shall become necessary.

(7) **Rights of way, etc.** To acquire by purchase, condemnation, gift, or other legal means, whatever real property, rights of way, materials, or labor that it shall deem necessary for the construction of the works of reclamation or necessary or useful in connection with carrying out the original plan or plans of reclamation, or any supplemental or additional plan of reclamation.

(8) **Canals, sluices, etc.** To acquire by purchase, condemnation, gift, or other legal means, such drains, canals, sluices, bulkheads, water-gates, levees, embankments, pumping plants, and to purchase, construct, or otherwise acquire, maintain, and keep in repair all things reasonably necessary or convenient for the reclamation of the lands embraced in said district either within or without the boundaries of the district.

(9) **Labor and machinery.** To employ such labor and to purchase and operate or hire such tools, machinery, material and equipment and to make and enter into such contracts and agreements as they shall deem necessary in order to accomplish the proper construction, maintenance, repair or operation of the works of reclamation of the said district.

(10) **Disposal of property.** To sell, convey, transfer, lease to others or otherwise dispose of such real or personal property belonging to the said district which said board of trustees shall find no longer necessary for the construction, maintenance or operation of the works of reclamation of said district; also to lease to others or to operate for hire any tools or machinery belonging to the said district which is not at the time needed by the district.

(11) **Proceedings to determine legality of district.** To commence proceedings in the superior court of the county where the greater portion of the district is situate to determine the legality of the existence of such district in the manner provided by section three thousand four hundred fifty-three of this code.

(12) **Distribution of funds not needed.** To distribute, among the land owners of the district, after having first provided by order duly entered in their minutes, any funds in the treasury belonging to said districts and not needed for the purposes of reclamation, such distribution to be made among the several land owners in the said district in proportion as said owners were assessed on the last assessment made by said district.

(13) **Report of plans.** To report to the supervisors every original plan, and every new, supplemental or additional plan for the reclamation of the lands within said district in the manner provided by section three thousand four hundred fifty-five of this code.

(14) **Cancel warrants.** To cancel all warrants of the district not paid within four years after date of issuance unless the payment thereof is extended in the manner provided by section three thousand four hundred fifty-seven of this code.

(15) **Collection of assessments.** To perform such duties with respect to the collection of assessments as is provided by section three thousand four hundred sixty-six of this code.

(16) **Bond elections.** To perform such duties with respect to the calling of bond election and the issuance of bonds as is provided in section three thousand four hundred eighty.

(17) **Reapportionment of assessments.** To reapportion the assessment or assessments upon any tract of land that has been subdivided into smaller parcels in such manner as will charge each of said smaller parcels with a just proportion of the assessment or assessments previously made upon said tract so subdivided, in the manner provided by section three thousand four hundred sixty hereof.

(18) **General supervision over works.** To exercise a general supervision and complete control over the construction, maintenance and operation of the works of reclamation and generally over the affairs of the district.

(19) **Seal.** To provide a seal which shall contain the number of the district and the county in which the lands or the greater portion thereof are located and all documents requiring the approval by the board of trustees shall hereafter bear the seal of the district.

(20) **General powers.** And to do and perform all acts and things which the said trustees may deem advisable, necessary or convenient for constructing, maintaining, or operating the works of reclamation, or accomplishing the purposes for which said reclamation district was formed.

B. **Compensation.** The several members of the board of trustees shall each be entitled to receive such compensation for services actually and necessarily performed as the said board of trustees may determine to be just and reasonable, and shall be reimbursed for such expenses as they may necessarily incur in the performance of their said duties as trustees. All claims by or in behalf of trustees for services rendered or expenses incurred shall be presented to the board of trustees, and if allowed shall be paid in the same manner as other indebtedness of the district, but no warrants drawn in favor of a trustee shall be valid until approved by the board of supervisors of the proper county. No trustee shall be disqualified from participating in any and all proceedings of the board of trustees, excepting that he shall not cast the deciding vote upon a motion of resolution approving a claim or awarding a contract in favor of himself.

C. **Regular meeting.** All meetings of the board of trustees at which all trustees are present or of which all members of the said board of trustees shall have received notice in writing of such meeting at least one day prior to the time set for such meeting to convene shall be deemed a regular meeting at which any business may be transacted. [Amendment approved May 26, 1917; Stats. 1917, p. 1193.]

§ 3455. Plans to be reported to supervisors. Plans transmitted to reclamation board. Hearing. Notice. Form of notice. Approval of plans. Action final. Amendatory plans. Levees included in plans. The board of trustees of any reclamation district must report to the board of supervisors of the county within which the district, or the greater part thereof, is situate, by filing with the county clerk of said county, two copies of the original plan or plans of the works of reclamation and two copies of every new, supplemental, or additional plan, if any, together with the estimates of the cost of the contemplated works of the district, including incidental expenses, maintenance and repair necessary for the reclamation of the lands of the district in pursuance of any such plan or plans. The term "works of reclamation" as used in this chapter shall include not only such public works and equipment, as are necessary for the unwatering of lands in reclamation districts, but shall also include such like works as may be necessary to water or irrigate the same lands in such districts.

If and when a district is located in whole or in part within the Sacramento and San Joaquin drainage district, three copies of such plan or plans and estimates shall be filed with the county clerk as aforesaid and the said county clerk shall, within five days after said three copies of such plans and estimates are filed with him, certify to two of said copies and transmit the same to the secretary of the reclamation board.

Upon receipt of said certified copies of said plan or plans, the secretary of the reclamation board shall immediately set a date when the

reclamation board will hold a meeting for considering objections, if any, to said plans. All such hearings by the said reclamation board shall be held not less than twenty, nor more than sixty days after the day the secretary of the reclamation board received a certified copy of the said plans. Notice of said hearing before the said reclamation board shall be given by the secretary of said board by publishing a notice of such hearing once a week for two weeks in some newspaper of general circulation published within said district, then in the county seat of the county within which the said district or the greater part thereof, is situate. Said notice shall be in substantially the following form:

"Notice to the land owners of reclamation district ——.

"Notice is hereby given to the land owners of reclamation district number —— that there has been filed with the county clerk of the county of —— and with the secretary of the reclamation board, original (supplemental or new, as the case may be) plans for the reclamation of lands of said district; that the reclamation board will hold a meeting at its office in the city of Sacramento, county of Sacramento, state of California, on the —— day of ——, A. D. 191—, at —— o'clock, at which time any interested party may appear and object to the said plans."

At said hearing the reclamation board shall hear such evidence as may be offered with respect to said plans, and thereafter shall approve, modify, amend or reject the said plans; provided, however, that the said reclamation board shall not have the power to modify, amend or reject any plans so submitted on the ground that said plans provide for a levee which in their judgment is of excessive strength either in height, slopes or crown width; but no claim for compensation shall thereafter be made against the reclamation board of the Sacramento and San Joaquin drainage district for any part of such levees which said board may consider to be in excess of what is required to comply with its plans for flood control. The reclamation board shall have power to continue or adjourn the said hearing from time to time and shall have authority to cause such investigation and report of said plans to be made by the engineers connected with the reclamation board or by such other competent authority as said board shall deem necessary.

When the said reclamation board shall have taken action approving, modifying, or rejecting any such original, supplemental or new plan of reclamation after a hearing as herein provided, such action shall be final, and thereafter the sufficiency of said plans shall not be subject to attack either before the reclamation board or in any court; provided, however, that nothing herein contained shall prevent the board of trustees of any district from at any time filing with the county clerk of the county within which the district, or the greater part thereof, is situate, two copies of any amendatory, additional or supplemental plan of reclamation. In the event any such amendatory, additional or supplemental plan of reclamation is filed with the said clerk, a certified copy thereof shall be transmitted to the secretary of the reclamation board, who shall set the time for hearing, and thereafter the same proceedings shall be had and with like effect with respect to said amenda-

tory, additional or supplemental plan as is herein provided for the original plan.

The said plan or plans and estimates may include any levees or other reclamation works already constructed or in course of construction and payments therefor may be made to the person or persons who constructed the same, or to the grantee of the lands for the benefit of which such levees or other works of reclamation were constructed by the owner of such lands, and no trustees shall be disqualified to make or approve such plans or estimates because of his ownership of any levee or other reclamation works included in such plan, or the cost of which is embraced in said estimates but he shall be disqualified to vote for the issuance of any warrant or order to himself in payment therefor. [Amendment approved May 26, 1917; Stats. 1917, p. 1197.]

§ 3456. Commissioners to assess land. Sums paid to county treasury. A. If and when the said reclamation board shall have approved the plan or plans of the works of reclamation, after a hearing as provided in section three thousand four hundred fifty-five of this code, then the board of trustees of the reclamation district shall so report to the board of supervisors of the county within which the district or the greater part thereof is situate, and shall set forth in their said report the estimated cost of the said works of reclamation, and petition the said board of supervisors to appoint three commissioners who shall have no interest in any real estate within said district, each of whom, before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly, and that he will perform the duties of a commissioner to the best of his ability. Upon receipt of said petition from the board of trustees the board of supervisors to whom the same was presented must within not more than sixty days appoint said assessment commissioners above referred to. Said commissioners must view and assess upon the land within said district the said sum so estimated and shall apportion the same according to the benefits that will accrue to each tract of land in said district, respectively, by reason of the expenditures of said sums of money, and shall estimate the same in gold coin of the United States. The sums must be collected and paid into the county treasury as hereinafter provided, and be placed by the treasurer to the credit of the district, and paid out for the works of reclamation upon the warrants of the trustees, approved by the board of supervisors, or, if bonds of such district have been issued upon said assessment, then said treasurer shall set the same apart as a separate fund for the purpose of paying the principal and interest of such bonds, and shall not pay any part of the moneys received from such assessment for any purpose other than the payment of the principal and interest of such bonds.

B. **Funds for maintenance and repair. Commissioners to prepare assessment list. Hearing. Action in superior court. Amounts needed thereafter. New assessment list.** When the work contemplated by the original or any supplemental plan of reclamation of any reclamation district shall have been completed, the trustees may so report to the board of supervisors of the county in which the district, or the greater part

thereof is situate, together with a petition to the said board of supervisors to appoint assessment commissioners. Said report and petition shall set forth that the work contemplated by the original or supplemental plan of reclamation has been completed, and that hereafter the said reclamation district will only require funds for the maintenance and repair of the said works of reclamation. Upon filing said report and petition the said board of supervisors shall appoint three commissioners, each of whom shall be similarly qualified, and shall make and subscribe the same oath as is provided hereinabove for commissioners. When so appointed and so qualified such commissioners shall prepare an assessment list, which list shall contain the following information in separate columns:

1. A description of each tract assessed by legal subdivisions, swampland surveys, or other boundaries sufficient to identify the same.
2. The number of acres in each tract.
3. The names of the owners of each tract, if known; and if unknown, that fact; but no mistake or error in the name of the owner or supposed owner of the property assessed, and no mistake in any other particular, shall render the assessment thereof invalid.
4. The assessment valuation per acre of each tract assessed.
5. The total assessment valuations of each said tract.
6. A blank column for rate to be fixed as shown hereinafter.
7. A blank column for amount of assessment to be computed as shown hereinafter.

Thereafter said assessment valuations shall be used as a basis for assessments in raising funds for the maintenance and repair of the works of reclamation and incidental expenses of said district. Said assessment list, when completed, shall be filed with the clerk of the board of supervisors in the same manner as a report made under an original or modified plan of reclamation. Thereupon the said board of supervisors shall appoint a time when it will meet for the purpose of hearing objections; said objections, if any, must be in writing, verified, and filed with the clerk of said board of supervisors. Notice of the said hearing shall be given in the same manner and for the same time as notice of hearing objections to an original assessment. At said hearing, the board of supervisors shall hear such evidence as may be offered in support of said written objections, and may modify or amend the said assessment valuations in any particular. No objections to said assessment valuations shall be considered by the board of supervisors, or allowed in any other action or proceeding, unless said objections shall have been made in writing to the board of supervisors within thirty days after the first publication of notice of hearing objections, if any, to said assessment valuations.

Any person aggrieved by the decision of the board of supervisors may commence an action in the superior court of the county in which the greater part of the said district is situate, to have said assessment valuations corrected, modified or annulled. Such action must be commenced within thirty days after said assessment valuations have been approved by the board of supervisors. If said action shall not be commenced within thirty days, no action of defense shall thereafter be

maintained attacking the legality of said assessment valuations in any respect.

Thereafter, whenever in the opinion of the trustees of the district, it shall be necessary to raise any sum for the construction, maintenance or repair of the works of reclamation, or for the incidental expenses of the district, the said board of trustees shall make an order, which order shall be entered in the minutes of the board and shall recite the total amount necessary to be raised and shall fix a rate designating the number of cents to be levied on each one hundred dollars of assessment valuation shown on the list prepared and approved in the manner hereinabove provided.

Thereafter the board of trustees must complete said assessment list by inserting the rate and the total assessment in columns six and seven as provided therefor.

The assessment made in pursuance hereof shall be filed with the county treasurer and thereafter collected in the same manner provided for the collection of any original assessment; provided, however, that the board of trustees may, in their discretion, direct the payment of any such assessment in one installment.

The report of assessment commissioners as herein provided fixing the assessment valuation for reclamation purposes, after having first been approved by the board of supervisors as hereinabove provided, shall continue in force as the basis for raising necessary funds for construction, maintenance and repair of the works of reclamation, and for incidental expenses of the district until the trustees of said district, or the holders of title or evidence of title representing fifteen per cent or more of the lands within the district, shall petition said board of supervisors to make an order directing the commissioners who made the original assessment list or other commissioners, to be named in such order to prepare a new assessment list. Such commissioners must have the same qualifications and take the same oath as the original assessment commissioners.

The assessment list when so prepared by said commissioners shall be filed with the clerk of the board of supervisors, and shall thereafter in all respects be subject to the same provisions as an original assessment list. All provisions of this code relating to collection of assessments and sale of land for delinquent assessments, shall be applicable to assessments levied in accordance with the provisions of this section. [Amendment approved May 26, 1917; Stats. 1917, p. 1198.]

§ 3457. Form of warrants. Interest on warrants. Warrant outstanding one year or more. Determination of amount due. All warrants drawn by the trustees must be in substantially the following form:

FACE.

No. ——. $——.

Office of the Board of Trustees of
Reclamation District No.——.

The Treasurer of —— County will pay to the order of —— out of Reclamation District No. —— fund the sum of —— dollars for —— allowed by the board of trustees of said Reclamation District No. ——.

Dated ——, 191—.

—— ——,
—— ——,
—— ——,
Trustees.

Attest:

—— ——,
Secretary.

REVERSE.

Pay to —— or order:
—— ——
—— ——

Presented for payment but not paid for want of funds, this —— day of ——, 191—.

—— ——,
Treasurer of —— County.

Approved by the Board of Supervisors of —— County this —— day of ——, 191—.

—— ——,
Chairman of board of supervisors.

Attest:

—— ——
Clerk of board of supervisors.

When registered this warrant bears seven per cent interest annually, computed from its date to the date of payment.

This warrant will outlaw and cannot legally be paid four years after date.

The warrants drawn by the trustees must be presented to the treasurer of the county, and if they are not paid on presentation, such indorsement must be made thereon, and they must be registered and bear interest from their date at the rate of seven per cent per annum, and such warrants are and shall be considered as contracts in writing for the payment of money, and the period prescribed for the commencement of an action based upon said warrants, or connected therewith, is and shall be the term of four years from the date of said warrants; provided, however, that all warrants shall be approved by the board of supervisors before the same shall be paid or registered by the county treasurer.

All warrants shall be paid by the county treasurer strictly in the order in which they shall have been registered.

Whenever a warrant shall have been outstanding one year or more, the board of trustees shall on the demand of the holder of said warrant cancel the same and issue a new warrant for the face value of the old warrant and a separate warrant for the amount of interest then due thereon; or, the board of trustees may allow a claim for the amount of interest due on any warrant so outstanding one year or more and may draw a warrant therefor; upon drawing this warrant they shall indorse on the reverse of the old warrant the fact that interest has been paid to the date of drawing the warrant for interest and the warrant drawn for the interest must state that it is for interest on warrant No. —— to —— (date); the board of trustees shall notify the county treasurer upon drawing these warrants for interest and he shall note on his register of warrants the fact that interest has been paid on such warrants; provided, that any warrant not paid or presented for reissuance may within four years after its date upon the demand of the holder, be extended for a like period of four years, upon presentation to the board of trustees of the district, such extension being indorsed thereon by said board. The board of trustees and the county treasurer may cancel all warrants not paid, reissued or extended within four years after their date.

In case an action or proceeding based upon any warrant or connected therewith, be commenced within four years after the date of such warrant, and final judgment be obtained in favor of the holder or owner thereof, such warrant shall be paid the same as if it had been paid before the expiration of said four years from the date of said warrant.

In any proceeding for a writ of mandate to compel the trustees to issue a warrant, if a controversy arises as to the amount that may be due to the plaintiff, the court must determine the same in the manner provided for determining controversies in other civil actions, and shall cause a writ to issue for such sums as may be found to be due. The date of a warrant shall be the day on which the same is signed by the board of trustees. [Amendment approved May 26, 1917; Stats. 1917, p. 1202.]

§ 3459. **Additional assessments.** If the original assessment is insufficient to provide for the complete reclamation of the lands of the district, or if further assessments are from time to time required to provide for the protection, maintenance and repair of the reclamation works, the trustees may file with the clerk of the board of supervisors of the county in which the district, or the greater part thereof, is situated two copies of the plan of reclamation and a statement of the work done or to be done and its estimated cost, and the same proceeding shall be had thereon as provided in section three thousand four hundred fifty-five for an original plan of reclamation. When said plan shall have been approved by the state board of reclamation, the trustees of the district shall so report to the board of supervisors, and such board must make an order directing the commissioners who made the original assessment, or other commissioners, to be named in such order, to assess the amount of such estimated cost as a charge upon the lands with the district, which assessment must be made and collected in the same manner as the

original assessment. [Amendment approved May 26, 1917; Stats. 1917, p. 1204.]

§ 3460. **Commissioners to make assessment list.** The commissioners appointed by the board of supervisors must make a list of the charges assessed against each tract of land; and if there be any error or mistake in the description of the land, or in the name of the owner, or if any land which should be assessed has been or shall be omitted from the list, or if there is any error or mistake in any other respect, the commissioners may amend or correct the same at any time before the lists shall have been approved by the board of supervisors as hereinafter provided. When any tract of land upon which an assessment or assessments shall have been made shall be subdivided into smaller parcels, the board of trustees of the district shall reapportion the assessment or assessments upon such tract in such manner as will charge each of said smaller parcels with a just proportion of assessment or assessments previously made upon said tract so subdivided. Said board of trustees shall file with the clerk of the board of supervisors of the county a list or lists of the charges assessed against each of said parcels. Said reapportionment shall be approved by the board of supervisors in the manner provided in section three thousand four hundred sixty-two of this code. Said lists after such approval shall be filed with the county treasurer of the county and shall have the same effect as on original assessment. [Amendment approved May 26, 1917; Stats. 1917, p. 1204.]

§ 3462. **List filed with clerk of supervisors. Objection to assessment. Action in superior court.** Said lists, when completed, shall be filed with the clerk of the board of supervisors of the county. The board of supervisors shall appoint a time when it will meet for the purpose of hearing objections to said assessment, and notice of such hearing shall be given by publication for two weeks in some newspaper of general circulation published in said county.

At any time before the date of such hearing, any person interested in any land upon which any charge has been assessed may file written objections to such assessment, stating the grounds of such objections, which said statement shall be verified by the affidavit of such person, or some other person who is familiar with the facts. At said hearing the board of supervisors shall hear such evidence as may be offered in support of said written objection and may modify or amend the said assessment in any particular, or make a reapportionment of the entire assessment. If the amount of any assessment in said list shall be changed, the board of supervisors shall set a day for hearing objections to said assessment as changed, and shall give notice thereof by publication for two weeks in some newspaper published in the county. At such hearing objections in writing may be made by any person interested, and the board of supervisors shall proceed to hear the same in the same manner as upon the original hearing. If the amount of any assessment shall again be changed the board of supervisors shall proceed as before to give notice and to hear objections thereto, and shall proceed in a similar manner until the amount of each assessment shall

be finally fixed and approved. The board of supervisors shall then make an order approving said assessment, and shall indorse such order upon said assessment list, which said indorsement shall be signed by the chairman of said board of supervisors and attested by the clerk thereof, and such decision of said board of supervisors shall be final, and thereafter said assessment list shall be conclusive evidence that the said assessment has been made and levied according to law, except in an action commenced as hereinafter provided. The lists shall then be filed with the county treasurer, or, if the district is situated in more than one county, then the original list must be filed in the county where the greater portion of the lands of said district is situated, and copies thereof certified by the treasurer must be filed with the treasurer of each of the other counties.

No objection to such assessment shall be considered by the board of supervisors, or allowed in any other action or proceeding, unless such objection shall have been made in writing to the board of supervisors as above specified.

Any person aggrieved by the decision of the board of supervisors may commence an action in the superior court of the county in which the greater part of said district is situated to have said assessment corrected, modified or annulled. Such action must be commenced within thirty days after said assessment list has been filed in the office of the county treasurer. If said action shall not be commenced within thirty days, no action or defense shall thereafter be maintained attacking the legality of said assessment in any respect.

The provisions of this section shall apply in all respects to an assessment list made under the provisions of subdivision B of section three thousand four hundred fifty-six. [Amendment approved May 26, 1917; Stats 1917, p. 1204.]

§ 3463. Charges assessed become lien. When the board of supervisors shall have finally taken action modifying or approving any assessment liens as provided in section three thousand four hundred fifty-five of this code, the charges assessed thereby upon tracts of land within the county shall constitute a lien thereon and shall impart notice thereof to all persons.

When the board of trustees of any reclamation district shall cause assessment lists to be prepared and filed with the clerk of the board of supervisors whereon they shall assess any sum necessary to be raised to the several tracts of land within the said district in the manner provided in the second paragraph of said section three thousand four hundred fifty-five, the charges so assessed upon any said tract shall constitute a lien thereon and shall impart notice thereof to all persons.

No subsequent act or conduct of the trustees of the reclamation district shall invalidate any such assessment, after the same shall have become a lien in the manner herein provided, but such trustees may be compelled by mandate, or other proper proceeding, to perform their duties as required by law. [Amendment approved May 26, 1917; Stats. 1917, p. 1206.]

§ 3465. Payments. The lists must remain in the office of the county treasurer for thirty days; and during the time they so remain any person may pay the amount of the charge assessed against any tract of land to the county treasury in gold coin of the United States or in warrants of the district drawn by order of the trustees thereof, and approved by the board of supervisors of the county. [Amendment approved May 26, 1917; Stats. 1917, p. 1206.]

§ 3466. Collection of unpaid assessments. Sale of property. Purchase by district. Redemption. At the end of thirty days unless bonds shall have been authorized the treasurer must return the list to the board of trustees of the district, and all unpaid assessments shall thereafter bear interest at the rate of seven per cent per annum. Thereafter all unpaid assessments and accrued interest shall be collected by and paid to the county treasurer, or the board of trustees may designate an agent to effect such collection who shall deposit said moneys with the county treasurer to the credit of the district. Whenever the board of trustees shall appoint an agent to collect assessments, they shall require that such agent give a bond in such an amount as they may consider sufficient for the faithful performance of his duties. All such payments shall be made in separate installments, of such amounts, and at such times, respectively, as the said board, from time to time, in its discretion by order entered in its minutes may direct. Upon making such order the secretary shall also enter in the minutes of the board a notice in substantially the following form:

(Name of reclamation district, location or principal place of business.) Notice is hereby given that at a meeting of the board of trustees held on the (date), an installment of (amount) was ordered paid within sixty days from date thereof to —— at ——. Any installment which shall remain unpaid on the (day fixed) will be delinquent together with the accrued interest thereon.

The notice must be personally served upon each owner of land in said district, or in lieu of personal service, must be sent through the mail addressed to such owner at his place of residence, if known or entered upon the assessment-roll of the county, and if not known, at the place where the principal office of the district is situated, or be published once a week for two weeks successively in some newspaper of general circulation and devoted to the publication of general news, within the district, and if no such newspaper be published within the district then publication may be made in some newspaper published in the county seat of the county where the greater portion of said district is situated.

If any such installment shall remain unpaid at the expiration of said sixty days from the date of the order, then the whole remaining uncalled portion of said assessment shall become delinquent together with the accrued interest thereon and a penalty of ten per cent of the amount of said installment and interest shall be added thereto and collected for the use of the district.

Immediately after the said installment has become delinquent, the trustee of the district must publish in one notice a list of all of said delinquencies at least once a week for two weeks in some newspaper of

general circulation published in the county where said district or the greater part thereof is situated, which notice shall contain a description of the property assessed, the name of the person to whom it is assessed, or a statement that it is assessed to unknown owners, if such is the fact; the amount then due on said property, and a notice that the property assessed will be sold on the date therein stated, in front of the courthouse of said county to pay the amount then due on said property. The date of said sale shall be not less than ten days after the date of the last publication of said notice. And at said time stated in said notice, or such other time to which said sale may have been postponed, the trustees must sell said property to the highest bidder for gold coin of the United States. Out of the proceeds of said sale the trustees must pay the amount due on said property as shown in said notice to the county treasurer who shall place the same in the proper funds of said district. The trustees must pay to the owner of said property any surplus remaining after such payment to the county treasurer. The trustees may postpone said sale from time to time for not less than ten nor more than thirty days at any one time by a written notice posted at the place of sale.

If no bid is made for said property equal to the amount due thereon, the district shall become the purchaser, and the said property must be struck off to the district for said amount. A certificate of such sale shall be executed by the trustees to the purchaser, or to the district, if the property shall have been struck off to the district, and said certificate of sale shall be recorded in the office of the county recorder of said county. Any person interested in said property may redeem the same at any time within one year after the date of said sale, by paying to the county treasurer the amount for which said property was sold, and interest on the said sums at the rate of two per cent per month from the date of said sale.

If no redemption shall be made within said one year, the purchaser, or the district, if said property shall have been sold to the district, shall be entitled to a deed executed by said trustees, and the effect of such deed shall be to convey said property free of all liens and encumbrances, excepting state, county and municipal taxes, and any subsequent district assessment. The trustees may sell said property at any time at public auction after notice given for the said period and in the same manner as is herein provided for sales for delinquent assessments, but not for a sum less than the amount for which said property was sold, together with any subsequent assessment and the deed executed in pursuance of such sale shall convey said property free of all encumbrances, except state, county and other municipal taxes. Assessments heretofore made in any reclamation district shall be validated and collected in the manner provided by law at the time such assessments were made. [Amendment approved May 26, 1917; Stats. 1917, p. 1208.]

§ 3467. Work of reclamation to be done under direction of trustees. [Repealed May 26, 1917; Stats. 1917, p. 1208.]

§ 3468. Accounts to be kept open to inspection. [Repealed May 26, 1917; Stats. 1917, p. 1208.]

§ 3480. Reclamation district may issue bonds. Special election and conduct of. Evidence of ownership and value. Bonds and coupons. Sale of bonds. Notice. Action to determine bonds legal obligation. Warrants. Bonds legal investment. Additional assessment and bonds. Installments. Delinquency. Sale of property. Whenever in any reclamation district in this state, now formed or which may hereafter be formed, any assessment has been levied and assessed upon the lands of said district, and remains unpaid in whole or in part, where in the judgment and opinion of the board of trustees of said district it would be for the best interest of said district or the land owners therein to issue bonds for the purpose of obtaining money to pay the costs of reclamation, the indebtedness of the district, or any other legal charge, or when a petition signed by the owners of more than one-half of the land in the district is filed with the secretary of the board, the board of trustees of such district shall by order entered upon the records of said board, order a special election to be held at some place in said district to be designated by said board of trustees, at which said special election shall be submitted to the owners of land in said district the question of whether or not bonds of said district shall be issued in an amount equal to the amount of such assessment, or the part of such assessment remaining unpaid, which said amount shall be entered by said board of trustees in its records and stated by them in the order for such special election.

For all purposes of this article relating to signing petitions and by-laws and voting at any election of reclamation districts the equalized assessment-roll for the year last preceding, in each county wherein any land of the district is situated shall be sufficient evidence of ownership and of value of lands in the district as hereinafter provided. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may sign such petitions or by-laws or may vote without obtaining special authority therefor.

Notice of such special election must be given by the board of trustees by posting notices thereof in at least three public places in the district at least twenty-one days prior thereto, and also by publication for the same length of time in some newspaper of general circulation published in each county in which any portion of said district may be situated; and such notice must specify the time and place of holding such election, the aggregate face value of bonds proposed to be issued and the names of three landholders of the district to act as a board of election. Affidavits of the publication and posting of such notice must be filed with the county clerk of the county in which said district or the greater part thereof is situated (herein designated as the main county), together with a copy of said order calling the election, certified by the president of the board of trustees.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy and shall have the right to cast one vote for each dollar's worth of real estate owned by him in the district, such value and ownership thereof to be determined from the next preceding assessment-roll of the county or counties in which the lands of said district are situate, and the board of trustees of the district shall, prior

to the election, cause to be prepared and certified by the proper officer and furnished to the board of election, a true and correct copy of the said next preceding assessment-roll of the said county or counties, which said certified roll shall be used by the said board of election in determining the number of votes each voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the votes of the estates represented by them.

No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election. The ballots cast at such election shall contain the words: "Bonds—yes," or the words "Bonds—no," and also the name of the person casting the ballot with the number of votes cast by him. A list of the ballots cast shall be made by the board of election, containing the name of each voter, and, if the ballot be cast by proxy, the name of the person casting it, and the number of votes cast by each, and whether the same be cast for or against the issuing of the bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present may appoint in his place any landholder of the district. Each member of such board of election, must, before entering upon his duties take and subscribe an official oath, which oath may be administered by an officer authorized to administer oaths or by any landholder in the district. The polls shall be kept open from ten o'clock A. M. of the day of election until four o'clock P. M. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and shall forward a certificate showing such result and the number of votes cast for and against the issuing of bonds, to the county clerk of the main county, and shall deliver a duplicate thereof to the board of trustees of the district, and shall also deliver to the said county clerk of the main county all ballots cast at such election and all documents and papers used at such election. Any person interested may contest such election within twenty days after such filing of said certificate with the said county clerk by bringing suit in the superior court of the main county; otherwise the declaration of the result by the board of election shall be final and conclusive.

If a majority of the votes cast at such election are in favor of the issuance of bonds, the board of trustees of the district shall cause bonds in the amount stated in the order for the election to be executed and delivered, together with the assessment list, to the treasurer of said main county. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the board of trustees of the district and attested by the county auditor of said main county, and shall be numbered consecutively in the order of their maturity, and shall bear interest at a rate not to exceed six per cent per annum, payable semiannually on the first day of January and the first day of July in each year at the office of said county treasurer upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall

be attached to said bonds and shall bear the facsimile signature of the county auditor. The principal of said bonds shall be made payable on the first day of July, or the first day of January, and in such years as the trustees may prescribe, but said bonds shall be payable serially within twenty years from their date in the manner following, to wit:

(1) Not less than ten per centum of the aggregate face value of bonds issued shall be payable within ten years from their date.

(2) Not less than ten per centum of the aggregate face value of bonds remaining unpaid at the end of ten years shall be payable each year beginning with the eleventh year from their date, until the whole amount of said bonds has been paid. Said bonds shall be substantially in the following form:

United States of America.

State of California.

County of ——.

No. ——. $——.

Reclamation District No. ——.

Reclamation District No. ——, for value received hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the treasurer of said —— county, in the state of California, on the first day of —— 19—, the sum of $——, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of —— per cent, per annum, payable at the office of said treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of —— bonds of like tenor and effect, except as to denomination and maturity, numbered from —— to —— inclusive, amounting in the aggregate to —— dollars, issued in accordance with section three thousand four hundred eighty of the Political Code of the state of California pursuant to an election held in said reclamation district on the —— day of ——, 19—, authorizing its issuance, and is based upon and secured by an assessment levied on the lands in said district, and filed in the office of the county treasurer of said county of —— on the —— day of ——, 19—, and the said reclamation district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all of the acts and conditions and things required by law to be done, precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of reclamation bonds.

In testimony whereof, the said district, by its board of trustees, has caused this bond to be signed by the president of said board and attested by the auditor of said county of —— with his seal of office affixed this —— day of ——, 19—.

—— ——,

President of said board.

Attest: —— ——.

Auditor of the county of ——, State of California.

And the interest coupons may be substantially in the following form:

No. ——. $——.

The county treasurer of —— county, California, will pay to the holder hereof on the —— day of ——, 19—, at his office in said county of —— the sum of $—— in gold coin of the United States out of the funds of Reclamation District No. —— for interest on bond of said district numbered ——.

—— ——,

County auditor.

The treasurer of said main county shall place the bonds prepared pursuant to this act to the credit of the district. Thereafter when directed by resolution of the trustees of the district, the treasurer of said county may sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the said county treasurer by publication at least once a week for two weeks in a newspaper of general circulation published in said main county, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the county treasurer shall open the bids and award the bonds to the highest responsible bidder. He may, and upon written request of a majority of the trustees must, reject any and all bids. Any sale by the county treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the county treasury to the credit of said district, and a proper record of such transaction shall be made upon the books of said county treasurer. At any time within thirty days after said bonds shall have been delivered to the treasurer of the county, an action may be commenced in the superior court of said main county by the trustees of said reclamation district in its name against the lands in said district and all persons owning the same or interested therein, to have it determined that said bonds are a legal obligation of such reclamation district, and in the event no such action is brought then the same may be commenced by any land owner in the district within thirty days thereafter. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for two weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court, and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty

days, after entry of judgment. Judgment for the plaintiff in such proceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and other interested persons.

The board of trustees of said district may draw warrants upon the said county treasurer against the funds provided by sale of bonds, which said warrants shall be approved by the board of supervisors of said main county.

All moneys collected by any county treasurer upon any assessment upon which bonds shall have been issued, including all moneys derived from sale of land for delinquent installments, or from redemption thereof, or from sale of lands bought by the treasurer at any such sale, shall be by such treasurer forthwith paid into the main county treasury to the credit of the bond fund of such reclamation district, and shall be used exclusively for the payment of principal and interest of said bonds issued on such assessment.

The bonds of reclamation districts issued pursuant to this act which have been investigated and certified by any officer of this state now or hereafter authorized to make such investigation and certification and by the authority of which certification are declared to be legal for investments by savings banks of this state may be lawfully purchased, or received in pledge for loans by savings banks, trust companies, insurance companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state or of any county, city or city and county or other municipal or corporate body within this state having or holding funds which they are allowed by law to invest or loan.

If the trustees deem it advisable they may order a special election to be held prior to making an assessment, to determine whether or not bonds shall be issued for an amount to be stated in the order for such election, but no bonds shall, in such instance, be issued until an assessment for the amount of the bonds authorized at such election shall have been made and filed with the county treasurer.

The lien of any unpaid assessment upon which bonds shall have been issued shall continue until all said bonds shall have been paid in full, and if for any reason any part of such principal or interest of said bonds shall remain unpaid after enforcement of said assessment as in this article provided, the board of supervisors of the main county shall order an additional or supplemental assessment to be made as provided in section three thousand four hundred fifty-nine, sufficient to pay such unpaid principal and interest; which additional or supplemental assessment shall be enforced and collected in the same manner as the original assessment.

If any district having authorized the issuance of a series of bonds shall issue an additional series of bonds based on another assessment, the dates of maturity of such additional series of bonds shall be such that the latest maturities thereof shall not exceed thirty years and the earliest maturity of bonds of such additional series shall be later than the latest maturity of bonds of any earlier series. All provisions of this section relative to the original issue of bonds shall apply to such

additional series of bonds so far as applicable and also so far as applicable shall affect existing reclamation districts as well as those hereafter formed.

Any district which has issued bonds of different denominations, may, by an order entered in its minutes, upon request of holders thereof, and upon the deposit of the bonds issued and outstanding with the board of trustees, issue to the holders of such deposited bonds, bonds of the district in the same form but in different denominations, but having the same aggregate face value and maturity. Such bonds shall be executed by all of the persons who are required by law to execute the original bonds for which such exchange is made, and the said bonds so deposited shall be thereupon canceled by the treasurer of the main county and the board of trustees of the district.

Whenever in any reclamation district in the state a bond issue of said district has been authorized prior to this amendment then the provisions of this section hereby amended in respect to the manner of procedure by which the assessments are called in to meet payments on account of principal or interest of such bonds, and also the provision herein contained by which the assessment shall continue in full force and effect as constituting a lien upon the several tracts of land within said district under the provisions of section three thousand four hundred sixty-three of this code until the principal and interest of all bonds issued on the basis of said assessment shall have been paid in full, shall apply to and inure to the benefit of the bonds which may have been issued by any reclamation district in this state prior to the date of the enactment of this amendment.

Upon a sale of any of the bonds provided herein the county treasurer of the main county is hereby authorized to accept in payment for said bonds, either in whole or in part, outstanding warrants of such district at their face value, together with the accrued interest thereon.

Where bonds of the district have been authorized to be issued on such assessments all unpaid assessments shall bear interest at the rate of seven per cent per annum from the date of the bonds issued thereon until such bonds shall have been fully paid and discharged, and the interest due at any time on said unpaid assessments may be called without calling any installment of the said assessment. The word installment as used in this section shall be construed as applying to interest as well as the principal as the case may be.

At least ninety days before any interest date of the bonds, the county treasurer of the main county shall estimate the amount of money necessary to pay interest and principal maturing on such interest date after crediting thereon the funds in the treasury applicable to the payment thereof, and shall add thereto fifteen per cent of such aggregate sum to cover possible delinquencies, and said county treasurer shall thereupon cause to be published once a week for two weeks in some newspaper of general circulation published in said county a notice substantially in the following form:

(Name of reclamation district.) Notice is hereby given that an installment of assessment (describing it) of (amount or proportion thereof including interest thereon or only for interest) is payable within thirty

days from (date) by all assessed land owners of said district in the county of (name of county) to the treasurer of said county. All or any part of said installment or interest which shall remain unpaid on the (day fixed) will be delinquent, together with accrued interest thereon, with twenty per cent of such installment and interest added as penalty.

Dated (date).

(Signed) —— ——

Treasurer of —— county.

If no newspaper is published in said county, such publication shall be made in a newspaper published in an adjoining county. If any part of such installment or any interest thereon shall remain unpaid at the expiration of thirty days from the date of said notice, it shall become delinquent and twenty per cent of the unpaid amount of said installment and interest shall be added thereto and collected by said treasurer. When any installment shall have become delinquent, said treasurer shall within ten days publish once a week for two weeks in a newspaper of general circulation in said county (or if no newspaper is published therein, then in a newspaper published in an adjoining county), a notice containing a description of each parcel of land assessed in the district in said county whereon such installment is delinquent, as such description appears on the assessment list, the name of the person to whom it is assessed, to unknown owners if such is the fact; the amount of the installment delinquent on such parcel, the amount of interest thereon reckoned to the day of sale, the amount of said twenty per cent penalty thereon, and a notice that each of said parcels will be sold at public auction by said county treasurer in front of the courthouse of said county, at a specified day and hour which shall not be less than thirty days nor more than sixty days from the date of delinquency, to pay said delinquent installment, with said accrued interest and penalty. At the time stated in said notice, the county treasurer shall sell each parcel of land described in said notice to the highest bidder, unless prior thereto he shall have received payment in full of said delinquent installment together with such interest and penalty. No bid for any parcel shall be accepted less than the aggregate sum then due on said installment thereon, with interest and penalty, and such sale shall be made for cash (except the treasurer may receive from any purchaser at their face value in lieu of cash, bonds of said district or their interest coupons, issued on said assessment and then matured or to mature within sixty days after such sale). Any bond or coupon so received in payment shall be by the treasurer forthwith canceled and filed in the office of the treasurer of the county wherein the greater part of the land of the district is situated, hereinafter called the main county. If the entire amount of any such bond or coupon tendered in payment shall not be required to complete payment of the purchase money, the treasurer shall indorse thereon as paid, the amount of such purchase money credited thereon. If no bid is made for any parcel at such sale equal to the amount of the installment delinquent thereon, with interest and penalty, the treasurer shall bid in and sell said parcel to himself and his successors in office, as trustee of the bond fund of said district, as purchaser, for the amount of said installment, interest and penalty. The treasurer shall execute to each purchaser, including himself as a trustee,

a certificate of sale, and shall record a duplicate in the county recorder's office. Any person interested in the said property may redeem the same at any time within one year after the date of sale, by paying to the county treasurer for such purchaser a sum equal to the purchase price stated in the certificate, with interest thereon at the rate of twelve per cent per annum from the date of sale to such redemption. If no redemption shall be made within one year, the treasurer upon demand and surrender of such certificate of purchase, shall execute to the purchaser, his heirs or assigns, a deed of conveyance of the parcel of land described in such certificate, which deed shall convey to the grantee therein named the said land free and clear of all encumbrances, except state, county and municipal taxes, and except any portion of any reclamation assessment remaining unpaid at the date of said sale; each installment whereof may be called and collected as herein provided, except that no parcel sold and conveyed to the district shall thereafter be subject to sale by the treasurer for delinquent installments. Every deed by a county treasurer purporting to be executed under this section shall be prima facie evidence of the truth of the matters therein recited, and of ownership by the grantee to the lands therein described. The treasurer of the main county shall credit to the bond fund of the district all money collected by him by sale or otherwise, upon assessments against which bonds shall have been issued, including interest and penalties, and all moneys received by him from treasurers of other counties upon account of such assessments, and he shall likewise credit to said fund the amounts of purchase money paid in bonds or coupons on sales made for said assessment by himself or reported to him by any other treasurer. Each treasurer shall charge to the general fund of the district, or to its bond fund if he has no money to the credit of its general fund, the expense of publication of notices and of recording certificates of sale. The treasurer of any county other than the main county shall without delay account for and transmit to the treasurer of the main county all money collected by him upon any assessment by sale or otherwise, deducting his expenses of publication and recording and shall also transmit all canceled bonds and coupons received in payment on any delinquent sale, and a memorandum of all sums indorsed as paid upon account of purchase money on any bonds or coupons, specifying the same. All moneys collected by any treasurer upon account of an assessment on which bonds shall not have been issued shall be similarly accounted for and transmitted to the treasurer of the main county, and shall be credited by him to the general fund of the district. Any parcel of land bid in and purchased by a treasurer as aforesaid, as trustee of the bond fund of the district, may be sold and conveyed by him or his successor in office at any time after the expiration of said redemption period of one year, at public or private sale and with or without notice, to any person paying him the amount for which said parcel was bid in by said treasurer at delinquent sale, with interest thereon at the rate of seven per cent per annum, compounded yearly, from the date of said delinquent sale, and also the amount of all subsequent installments then delinquent, with accrued interest and penalties thereon. Such payment may be made either in cash or in matured bonds and coupons issued on said assessment, taken at their face value, and the treasurer shall exe-

cute a deed to such purchaser upon such sale, conveying said property free of encumbrance except state, county and municipal taxes, and the unpaid balance of said assessment. If any land so held by a county treasurer as trustee of the bond fund of a district shall remain unsold after the final installment of the assessment shall have been collected by payment or sale, then each such treasurer shall sell all said land so held by him at public auction to the highest bidder for cash, upon two weeks published notice, and shall deposit the proceeds of such sale in the treasury of the main county, to the credit of the bond fund of the district. Any balance remaining in such bond fund, after payment in full of the principal and interest of all outstanding bonds of the district, shall be by the treasurer transferred to the general fund of the district.

In the event that ownership of any property in the district is changed after the making of the last assessment-roll for the district, the owner thereof shall be entitled to vote thereon upon production of the original or of certified copy of the record thereof in the office of the county recorder of the county in which the property is situate. Any person not legally qualified to vote who shall make any false statement in respect to his right to vote shall incur all of the penalties provided in the Penal Code of the state of California for persons illegally voting at elections. [Amendment approved May 26, 1917; Stats. 1917, p. 1181.]

§ 3513. Nonpayment of principal and interest on state lands. Certificate of purchase void, when. Land excepted. Notice of forfeiture. In case payment is not made within fifty days, the lands described in the survey or location revert to the state without suit, and the survey or location is void. All subsequent payments must be made to the county treasurer, in like manner, who must indorse the same upon the certificate of purchase. The treasurer must direct the purchaser to take the certificate of purchase so indorsed to the auditor, who must charge the treasurer with the amount received, and make his check upon the indorsed receipt. If any interest on the unpaid portion of the purchase price of said lands, be not paid on or before the thirtieth day of June following the first day of January upon which such interest becomes due, ten per centum of the amount thereof is hereby added as a penalty for such delinquency. If such delinquent interest, and penalty, be not paid on or before the thirty-first day of December of such year an additional penalty of ten per centum of the amount of such delinquent interest is hereby imposed upon the person or persons liable for the payment thereof. If such delinquent interest, and penalties, be not paid on or before the thirtieth day of June of the year following, the certificate of purchase shall ipso facto become null and void, and the lands described therein revert to the state without suit, and shall again become subject to entry and sale in the same manner and subject to the same conditions as apply to other state lands of like character. In the event of the happening of the contingency last mentioned, all moneys previously paid on account of the purchase price of such lands, whether for principal or interest, shall become, and are hereby determined and declared to be forfeited to the state, and neither such delinquent purchaser nor anyone claiming under him shall be entitled to recover the same or any part thereof. The penalties and forfeitures herein provided for

shall not apply to any land for which certificates of purchase were issued prior to May first, A. D. one thousand nine hundred eleven, nor to lands within any reclamation district, after certificate of the board of supervisors that works of reclamation have been commenced in such district has been filed in the register's office. Whenever any penalty, or penalties, hereby imposed has, or have, accrued, the treasurer must in all cases collect the full amount thereof before indorsing his receipt upon such certificate, and the auditor must ascertain such fact before appending his check thereto. Immediately following the thirtieth day of June, A. D. one thousand nine hundred eighteen, and annually thereafter, the register of the state land office shall note upon his records all forfeitures herein and hereby declared, and shall forward to the recorder of each county wherein any of said lands may be situate a notice of such forfeiture, stating therein the name and postoffice address of the purchaser, and the name and postoffice address of the assignee, grantee, or successor in interest of such purchaser in all cases wherein notice of any assignment of such certificate of purchase, or of any conveyance or other transfer of title to any part of the lands therein described shall have been filed in his office prior to the date of such forfeiture, such notice shall also show the number and date of the survey or location and of the certificate of purchase, and shall contain a description of the lands affected thereby. It shall be the duty of the recorder to receive and file such notice and to record the same in a book of deeds. Such notice is, from the time it is filed in the recorder's office, constructive notice of the contents thereof to subsequent purchasers and mortgagees, and to all other persons who may thereafter attempt to acquire any interest in, or lien upon, any of the lands in such notice described. [Amendment approved April 5, 1917; Stats. 1917, p. 64.]

§ 3607. **Property subject to taxation.** All property in this state, except as otherwise provided in the constitution of this state, is subject to taxation. Nothing in this code shall be construed to require or permit double taxation. [Amendment approved May 11, 1917; Stats. 1917, p. 427.]

§ 3608. **Shares of stock in corporations.** Shares of stock in corporations possess no intrinsic value over and above the actual value of the property of the corporation which they stand for and represent. The assessment and taxation of such shares, and also of all corporate property would be double taxation. All property belonging to corporations shall be assessed and taxed, in the manner provided by law; but no assessment shall be made of shares of stock in any corporation except as prescribed in the constitution of this state and the laws enacted pursuant to such provisions of the constitution. [Amendment approved May 11, 1917; Stats. 1917, p. 427.]

§ 3609. **Shares of national banks.** [Repealed 1917; Stats. 1917, p. 428.]

§ 3610. **Shares of national banks.** [Repealed 1917; Stats. 1917, p. 428.]

§ 3627. Assessed at full cash value. All taxable property must be assessed at its full cash value. Land and improvements thereon shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value. [Amendment approved May 11, 1917; Stats. 1917, p. 428.]

§ 3628. Assessment of taxable property. Except as otherwise provided in the constitution of this state, all taxable property shall be assessed in the county, city, city and county, town, township, or district in which it is situated. Land shall be assessed in parcels, or subdivisions, not exceeding six hundred forty acres each; and tracts of land containing more than six hundred forty acres, which have been sectionized by the United States government, shall be assessed by sections or fractions of sections. Land sold by the state for which no patent has been issued, shall be assessed the same as other land, but the owner shall be entitled to a deduction from such assessed valuation in the amount due the state as principal upon the purchase price. The assessor must, between the first Mondays in March and July of each year, ascertain the names of all taxable inhabitants, and all the property in his county subject to taxation, except such as is required to be assessed by the state board of equalization and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was, at twelve o'clock meridian of the first Monday in March next preceding; but no mistake in the name of the owner or supposed owner of real property shall render the assessment thereof invalid. In assessing solvent credits, not secured by mortgage or trust deed on real estate, a deduction therefrom shall be made of debts due to bona fide residents of this state. [Amendment approved May 11, 1917; Stats. 1917, p. 428.]

§ 3629. Statement of property owned. The assessor must exact from each person a statement, under oath, setting forth specifically all the real and personal property owned by such person, or in his possession, or under his control, at twelve o'clock M. on the first Monday in March. Such statement shall be in writing, showing separately:

1. All property belonging to, claimed by, or in the possession or under the control or management of such person.

2. All property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member.

3. All property belonging to, claimed by, or in the possession or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent.

4. The county in which such property is situated, or in which it is liable to taxation, and, if liable to taxation in the county in which the statement is made, also the city, town, township, school district, road district, or other revenue districts in which it is situated.

5. An exact description of all lands, in parcels or subdivisions, not exceeding six hundred forty acres each, and the sections and fractional sections of all tracts of land containing more than six hundred forty acres, which have been sectionized by the United States government,

improvements and personal property, including all vessels, steamers, and other watercraft; and all taxable state, county, city, or other municipal or public bonds, and the taxable bonds of any person, firm, or corporation, and deposits of money, gold-dust, or other valuables, and the names of the persons with whom such deposits are made, and the places in which they may be found.

6. All solvent credits, unsecured by deed of trust, mortgage, or other lien on real or personal property, due or owing to such person, or any firm of which he is a member, or due or owing to any corporation of which he is president, secretary, cashier, or managing agent, deducting from the sum total of such credits such debts only, unsecured by trust deed, mortgage, or other lien on real or personal property, as may be owing by such person, firm, or corporation to bona fide residents of this state. No debts shall be so deducted unless the statement shows the amount of such debt as stated under oath in aggregate. Whenever one member of a firm, or one of the proper officers of a corporation, has made a statement showing the property of the firm or corporation, another member of the firm, or another officer, need not include such property in the statement made by him; but his statement must show the name of the person or officer who made the statement in which such property is included. [Amendment approved May 11, 1917; Stats. 1917, p. 429.]

§ 3641. Property of firm or corporation assessed where situated. [Repealed 1917; Stats. 1917, p. 429.]

§ 3643. Ferries. A ferry-boat is a vessel traversing across any of the waters of the state, between two constant points, regularly employed for the transfer of passengers and freight, authorized by law so to do. Where ferries connect more than one county, the wharves, storehouses, and all stationary property belonging to or connected with such ferries, must be assessed, and the taxes paid, in the county where located. The value of all watercraft, and of all toll bridges connecting more than one county, must be assessed in equal proportions in the counties connected by such ferries or toll bridges. [Amendment approved May 11, 1917; Stats. 1917, p. 429.]

§ 3650. Assessment-book. Listing of property. The assessor must prepare an assessment-book, with appropriate headings as directed by the state board of equalization, in which must be listed all property within the county, and which shall show under the appropriate head:

1. The name and postoffice address, if known, of the person to whom the property is assessed.

2. Land, by township, range, section, or fractional section; and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, not exceeding in any tract six hundred forty acres, locality, and the improvements thereon. When any tract of land is situated in two or more school, road, or other revenue districts of the county, the part in each such district must be separately assessed. The improvements to be assessed against the particular section, tract, or lot of land upon which they are located; city and town lots, naming

the city or town, and the number of the lot and block, according to the system of numbering in such city or town, and the improvements thereon.

3. All property within the limits of an incorporated city or town shall be assessed in an assessment-book separate and distinct from the assessment-book containing the assessment of property situate outside the limits of such incorporated city or town; or, if but one assessment-book is used, then in a separate and distinct part of such book; provided, that all property assessed shall be arranged on the assessment-book by elementary school districts, as such districts are legally formed and exist on the first Monday in March of each year; provided, further, that where any school district embraces property situate both within and without the limits of an incorporated city or town, such property shall be assessed and kept separate and distinct on the assessment-book.

4. All personal property, showing the number, kind, amount, and quality; but a failure to enumerate in detail such personal property does not invalidate the assessment.

5. The cash value of real estate.

6. The cash value of improvements on such real estate.

7. The cash value of improvements on real estate assessed to persons other than the owners of the real estate.

8. The cash value of all personal property, exclusive of money.

9. The amount of money.

10. Taxable improvements owned by any person, firm, association, or corporation, located upon land exempt from taxation, shall, as to the manner of assessment, be assessed as other real estate upon the assessment-book. No value shall, however, be assessed against the exempt land, nor under any circumstances shall the land be charged with or become responsible for the assessment made against any taxable improvements located thereon.

11. The school, road, and other revenue districts in which each piece of property assessed is situated.

12. The total value of all property.

13. In entering assessments containing solvent credits subject to deductions, as provided in section three thousand six hundred twenty-eight of this code, he must enter in the proper column the value of the debts entitled to exemption and deduct the same. In making the deductions from the total value of property assessed, as above directed, he must enter the remainder in the column provided for the total value of all property for taxation.

14. Such other things as the state board of equalization may require. [Amendment approved June 1, 1917; Stats. 1917, p. 1643.]

§ 3663. **Water ditches.** Water ditches constructed for mining, manufacturing, or irrigation purposes, and wagon and turnpike toll roads, must be assessed the same as real estate by the assessor of the county, at a rate per mile for that portion of such property as lies within his county. [Amendment approved May 11, 1917; Stats. 1917, p. 430.]

§ 3664. Taxes for state purposes. Taxes levied, assessed and collected as hereinafter provided upon railroads, including street railways, whether operated in one or more counties; sleeping-car, dining-car, drawing-room car and palace-car companies, refrigerator, oil, stock, fruit, and other car-loaning and other car companies operating upon railroads in this state; companies doing express business on any railroad, steamboat, vessel, or stage line in this state; telegraph companies; telephone companies; companies engaged in the transmission or sale of gas or electricity; insurance companies; banks, banking associations, savings and loan societies, and trust companies; and taxes upon all franchises of every kind and nature, shall be entirely and exclusively for state purposes, and shall be assessed and levied by the state board of equalization, and collected in the manner hereinafter provided. The word "company" and the word "companies" as used in section fourteen of article thirteen of the constitution of this state and in the sections of this code enacted to carry the same into effect shall include persons, partnerships, joint stock associations, companies, and corporations [New section added May 11, 1917; Stats. 1917, p. 337.]

Old section 3664, relating to statements by officers of corporations to the state board of equalization, was repealed in 1917 (Stats. 1917, p. 336).

§ 3664a. Public utilities to pay state tax. Percentage of gross receipts. 1. All railroad companies, including street railways, whether operated in one or more counties; all sleeping-car, dining-car, drawing-room car and palace-car companies, all refrigerator, oil, stock, fruit, and other car-loaning, and other car companies, operating upon the railroads in this state; all companies doing express business on any railroad, steamboat, vessel, or stage line in this state; all telegraph and telephone companies; and all companies engaged in the transmission or sale of gas or electricity shall annually pay to the state a tax upon their franchises, roadways, roadbeds, rails, rolling stock, poles, wires, pipes, canals, conduits, rights of way, and other property, or any part thereof, used exclusively in the operation of their business in this state, computed as follows: Said tax shall be equal to the percentages hereinafter fixed upon the gross receipts from operation of such companies and each thereof within this state.

2. **Companies partly within and without state.** When such companies are operating partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts on business beginning and ending within this state, and a proportion, based upon the proportion of the mileage within this state to the entire mileage over which such business is done, of receipts on all business passing through, into, or out of this state.

3. **Percentages.** The percentages above mentioned shall be as follows: On all railroad companies, including street railways, five and one-fourth per cent; on all sleeping-car, dining-car, drawing-room car, palace-car companies, refrigerator, oil, stock, fruit, and other car-loaning, and other car companies, three and ninety-five hundredths per cent; on all companies doing express business on any railroad, steamboat, vessel or

stage line, nine-tenths of one per cent; on all telegraph and telephone companies, four and two-tenths per cent; on all companies engaged in the transmission or sale of gas or electricity, five and six-tenths per cent.

4. **In lieu of other taxes.** Such taxes shall be in lieu of all other taxes and licenses, state, county, and municipal, upon the property above enumerated of such companies except as otherwise provided in section fourteen of article thirteen of the constitution of this state.

5. **"Municipal" defined.** The word "municipal" as used in section fourteen of article thirteen of the constitution of this state and in the sections of this code enacted to carry the same into effect shall apply to incorporated towns and cities formed under article eleven of the constitution of this state and to none other. [New section added May 11, 1917; Stats. 1917, p. 337.]

§ 3664b. Tax on gross premiums of insurance companies. Every insurance company or association doing business in this state shall annually pay to the state a tax of two per cent upon the amount of the gross premiums received upon its business done in this state, less return premiums and reinsurance in companies or associations authorized to do business in this state; provided, that there shall be deducted from said two per cent upon the gross premiums the amount of any county and municipal taxes paid by such companies on real estate owned by them in this state. This tax shall be in lieu of all other taxes and licenses, state, county, and municipal, upon the property of such companies, except county and municipal taxes on real estate, and except as otherwise provided in the constitution of this state; provided, that when by the laws of any other state or country, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies of this state, doing business in such other state or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, imposed upon insurance companies, of such other state or country, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind must be imposed by the insurance commissioner upon insurance companies of such other state or country doing business in this state. [New section added May 11, 1917; Stats. 1917, p. 337.]

§ 3664c. Tax on bank stock. 1. The shares of capital stock of all banks, organized under the laws of this state, or of the United States, or of any other state and located in this state, shall be assessed and taxed to the owners or holders thereof by the state board of equalization, in the manner hereinafter provided, in the city or town where the bank is located and not elsewhere. There shall be levied and assessed upon such shares of capital stock an annual tax, payable to the state, of one and sixteen hundredths per centum upon the value thereof. The value of each share of stock in each bank, except such as are in liquidation, shall be taken to be the amount paid in thereon, together with its pro rata of the accumulated surplus and undivided profits. The value of

each share of stock in each bank which is in liquidation shall be taken to be its pro rata of the actual assets of such bank.

2. **In lieu of other taxes.** This tax shall be in lieu of all other taxes and licenses, state, county, and municipal, upon such shares of stock and upon the property of such bank, except county and municipal taxes on real estate and except as otherwise provided in the constitution of this state.

3. **Value of real estate deducted.** In determining the value of the capital stock of any bank there shall be deducted from the value, as defined above, the value, as assessed for county taxes, of any real estate, other than mortgage interests therein, owned by such bank and taxed for county purposes.

4. **Banks liable for tax.** The banks shall be liable to the state for this tax and the same shall be paid to the state by them on behalf of the stockholders in the manner and at the time hereinafter provided, and they shall have a lien upon the shares of stock and upon any dividends declared thereon to secure the amount so paid.

5. **Tax on unincorporated banks.** The moneyed capital, reserve, surplus, undivided profits, and all other property belonging to unincorporated banks or bankers of this state, or held by any bank located in this state which has no shares of capital stock, or employed in this state by any branches, agencies, or other representatives of any banks doing business outside of the state of California, shall be likewise assessed and taxed to such banks or bankers by the said board of equalization; in the same manner as above provided for incorporated banks, and taxed at the same rate that is levied upon the shares of capital stock of incorporated banks, as provided in the first paragraph of this section.

6. **Branch of bank doing business outside of state.** In the case of a branch, an agency, or other representative of any bank doing business outside of this state, the capital of said branch, agency, or representative used in this state shall be taken to be the average amount owed by the said branch, agency, or representative to the bank of which it is a branch, agency, or representative during the year ending the first Monday in March. The value of said property shall be determined by taking the entire property invested in such business, together with all reserve, surplus, and undivided profits, at their full cash value, and deducting therefrom the value as assessed for county taxes of any real estate, other than mortgage interests therein, owned by such bank or banker and taxed for county purposes. Such taxes shall be in lieu of all other taxes and licenses, state, county and municipal, upon the property of the banks and bankers mentioned in this section, except county and municipal taxes on real estate, and except as otherwise provided in the constitution of this state. All moneyed capital and property of the banks and bankers mentioned in this paragraph shall be assessed and taxed at the same rate as an incorporated bank, provided for in this section. In determining the value of the moneyed capital and property of the banks and bankers mentioned in this section, the said state board of equalization shall include and assess to such banks all property and

everything of value owned or held by them which would go to make up the value of the capital stock of such banks and bankers, if the same were incorporated and had shares of capital stock.

7. **"Banks" defined.** The word "banks" as used in section fourteen of article thirteen of the constitution of this state and in the sections of this code enacted to carry the same into effect shall include banking associations, unincorporated banks and bankers, branches, agencies or other representatives of any banks doing business outside of the state of California, savings and loan societies, and such trust companies, as conduct the business of receiving money on deposit, but shall include building and loan associations. [New section added May 11, 1917; Stats. 1917, p. 338.]

§ 3664d. Assessment and tax of franchises. All franchises, other than those of the companies mentioned in sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-four *b*, and three thousand six hundred sixty-four *c* of this code, shall be assessed at their actual cash value, after making due deduction for goodwill, in the manner hereinafter provided, and shall be taxed at the rate of one and two-tenths per centum each year, and the taxes collected thereon shall be exclusively for the benefit of the state. These franchises shall include the actual exercise of the right to be a corporation and to do business as a corporation under the laws of this state and the actual exercise of the right to do business as a corporation in this state when such right is exercised by a corporation incorporated under the laws of any other state or country, also the right, authority, privilege, or permission to maintain wharves, ferries, toll roads, and toll bridges, and to construct, maintain or operate, in, under, above, upon, through or along any streets, highways, public places, or waters, any mains, pipes, canals, ditches, tanks, conduits or other means for conducting water, oil, or other substances. [New section added May 11, 1917; Stats. 1917, p. 338.]

§ 3665. Municipal franchises and privileges. Nothing in any section of this code shall be construed to release any company from the payment of any amount agreed to be paid or required by law to be paid, now or hereafter, for any special privilege or franchise granted by any of the municipal authorities of this state. [New section added May 11, 1917; Stats. 1917, p. 340.]

The old section 3665, relating to the assessment of railway franchises and property, was repealed in 1917 (Stats. 1917, p. 336).

§ 3665a. "Gross receipts from operation" defined. Hearing on claim of double taxation. 1. The term "gross receipts from operation" as used in section three thousand six hundred sixty-four *a* of this code is hereby defined to include all sums received from business done within this state, during the year ending the thirty-first day of December last preceding, including the company's proportion of gross receipts from any and all sources on account of business done by it within this state, in connection with other companies described in said section.

Any company claiming that the levy of the percentage fixed by section three thousand six hundred sixty-four *a* of this code on the total gross

receipts of such company results in double taxation of the property of such company, may make application to the state board of equalization for a hearing on such matter. Said board shall have power to take evidence and determine the facts with respect to such claim and in event said board finds the claim of such company to be true, said board may authorize such company to deduct from its reported gross receipts that amount of such receipts which, if included in such total gross receipts, would cause such double taxation.

2. **Companies partly within and without state.** In case of companies operating partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts on business beginning and ending within this state, and the proportion based upon the proportion of the mileage within this state to the entire mileage over which such business is done, of receipts on all business passing through, into or out of this state.

3. **No deductions allowed.** No deduction shall be allowed from the gross receipts from operation for commissions, rebates, or other repayments, except only such refunds as arise from errors or overcharges; nor shall any deduction be allowed for payments from gross receipts to other companies for any purpose whatsoever, except such refunds as arise from errors or overcharges.

4. **Income from nonoperative property not included.** Income derived from property not defined in this section and in sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-five *b* and three thousand six hundred sixty-five *c* of this code as operative property shall not be included in the gross receipts for the purpose of determining the tax on the property and franchises provided for in section three thousand six hundred sixty-four *a* of this code. [New section added May 11, 1917; Stats. 1917, p. 341.]

§ 3665b. **"Operative property."** The term "operative property" as used in any section of this code shall include:

(a) **Railroad companies.** In the case of railroad companies, including street railways: The franchises, roadway, roadbed, rails, rolling stock, rights of way, sidings, spur-tracks, switches, signal systems, cranes and structures used in loading and unloading cars, fences along the right of way, poles, wires, conduits, power lines, piers, used exclusively in the operation of the railroad business, depot grounds and buildings, ferry-boats, tugs and car-floats used exclusively in the operation of the railroad business; machine-shops, repair-shops, roundhouses, car barns, power-houses, substations, and other buildings, used in the operation of the railroad business and so much of the land on which said shops, houses, barns, and other buildings are situate as may be required for the convenient use and occupation of said buildings.

(b) **Car companies.** In the case of sleeping car, dining car, drawing-room car and palace-car companies, refrigerator, oil, stock, fruit, and other car-loaning, and other car companies operating upon railroads in this state: The franchises, cars, and other rolling stock.

(c) **Express companies.** In the case of companies doing express business on any railroad, steamboat, vessel, or stage line in this state: The franchises, cars, trucks, wagons, horses, harness, and safes.

(d) **Telegraph and telephone companies.** In the case of telegraph and telephone companies doing business in this state: The franchises, rights of way, poles, wires, pipes, conduits, cables, switchboards, telegraph and telephone instruments, batteries, generators, and other electrical appliances, and exchange and other buildings used in the telegraph and telephone business and so much of the land on which said buildings are situate as may be required for the convenient use and occupation of said buildings.

(e) **Gas and electric companies.** In the case of companies engaged in the transmission or sale of gas or electricity: The franchises, towers, poles, wires, pipes, canals, tunnels, ditches, flumes, aqueducts, conduits, rights of way, dams, reservoirs, water and water rights used exclusively in the business of the transmission or sale of gas or electricity; transformers, substations, gas-holders, gas and electric generators, switches, switchboards, meters, electrical and gas appliances, oil-tanks, power plants, power-houses, and other buildings and structures used in the operation of the business of the transmission or sale of gas or electricity and so much of the land on which said buildings and structures are situate as may be required for the convenient use and operation of said buildings; provided, that the operative property of the companies enumerated in this section, shall also include any other property not above enumerated that may be reasonably necessary for use by said companies exclusively in the operation and conduct of the particular kinds of business enumerated in section three thousand six hundred sixty-four *a* of this code. The operative property mentioned in subdivisions (a), (b), (c), (d), and (e), of this section shall not be subject to taxation for county, municipal, or district purposes except as otherwise provided for in the constitution and laws of this state; provided, however, that when any piece or parcel of property in this state owned by any of the companies mentioned in section three thousand six hundred sixty-four *a* of this code is used partially by such company for any use reasonably necessary to the operation of any of the lines of business enumerated in said section and such property is also partially rented to or used by others or is partially used by the company for some other lines of business not among those so enumerated, or for purposes not reasonably necessary to the operation of any of said enumerated lines of business, it shall be considered operative property in that proportion only which that part of the property mentioned in this proviso used by the company in the operation of any of said enumerated lines of business bears to the whole of the property mentioned in this proviso.

2. **Construction property nonoperative.** Any property of the classes mentioned in this section owned by a company constructing a new railroad, street railway, telegraph or telephone system, or plant or system for the transmission or sale of gas or electricity, no part of which new road, line, plant or system is in operation, and the same classes of property when held by an operating company solely for the construction of a new railroad or railway line, a new telegraph or telephone system, or a

new plant or system for the transmission or sale of gas or electricity, and not to be used for betterments or additions to roads, lines, plants, or systems already under operation, shall not be considered operative property and shall be subject to assessment and taxation for county, municipal, and district purposes. Any part of such property of any company mentioned in this section shall be classed and assessed as operative property when the state board of equalization shall determine that such property is rendering a substantial public service.

3. **Rules of state board of equalization.** The state board of equalization shall have power to make rules and issue instructions not inconsistent with the constitution and laws of this state for the guidance of assessors in determining what is operative property and what is nonoperative property of companies named in this section. [New section added May 11, 1917; Stats. 1917, p. 341.]

§ 3665c. Annual report by companies. Such person or officer, as the state board of equalization may designate, of each of the companies mentioned in section three thousand six hundred sixty-four *a* of this code, shall within ten days after the first Monday in March of each year, file with the said board a report signed and sworn to by one or more of said persons or officers, showing in detail for the year ending the thirty-first day of December last preceding, the various items as follows:

1. **Name, etc.** The name of the company, its nature, whether a person or persons, a partnership (with names of partners), an association, or corporation, and under the laws of what state, territory or country organized, the nature of its business, the location of its principal place of business, the names and postoffice addresses of its president, secretary, auditor, treasurer, superintendent, and general manager, the location of its principal place of business in this state, the name and postoffice address of its chief officer or managing agent in this state, and the names and addresses of all subsidiary companies whose property and business are operated by it and the names and addresses of any company of which it may be subsidiary.

2. **Operative property.** Each of the companies mentioned in said section shall report, in such detail as the state board of equalization shall prescribe, all of its property in this state which comes under the definition of operative property in section three thousand six hundred sixty-five *b* of this code. When any such company operates both within and without this state it shall report the mileage over which it operates both within and without this state. It shall also report the location of said property within this state by counties, cities and counties, municipalities, and districts, in such manner and in such detail as said board of equalization shall prescribe. It shall also, at the same time, furnish a duplicate of the report covering so much of said property as is located in any county, city and county, municipality, or district, to the assessor of the county, city and county, city or district in which such property is located.

The state board of equalization may require the filing in its office of maps descriptive of all the operative property of any such companies, and may prescribe the form and size of such maps and the details to be shown therein, and may require that similar maps descriptive of the

operative property within each county, city and county, municipality, or district, shall be filed in the assessor's office in each county, city and county, city, or district in which any of said property is located.

3. **Capital stock.** The amount of capital stock issued, and the amount of money received therefor, showing separately the capital stock issued and the money received therefor of the operating company and of each subsidiary company in this state.

4. **Dividends.** The dividends paid during the year ending the thirty-first day of December last preceding, the surplus fund, if any, on said thirty-first day of December, or between such periods as the state board of equalization may determine, those of the operating company and of each subsidiary company in this state to be shown separately.

5. **Debts.** The funded and floating debts and the rate of interest thereon, showing separately the debts of the operating company and of each subsidiary company in this state, on the thirty-first day of December last preceding.

6. **Value of stock.** The market value of the stock and of the outstanding bonds, or, when said stock or bonds have no market value, the actual value thereof, for such periods and for such dates as the state board of equalization shall prescribe.

7. **Improvements.** The amounts expended for improvements during the year ending the thirty-first day of December last preceding, how expended and the character of the improvements.

8. **Gross receipts.** The gross receipts from operation within this state for the year ending the thirty-first day of December last preceding, the gross receipts from such classes of business as the state board of equalization may designate, to be reported separately; also, where the property and business are partly within and partly without this state, the gross receipts for said period on all business beginning and ending entirely within this state, and that proportion of the gross receipts from all business passing through, into, or out of this state, which the mileage within this state bears to the total mileage over which such interstate business is done as further defined in section three thousand six hundred sixty-five *a* of this code.

9. **Expenses.** The operating and other expenses.

10. **Profit and loss.** The balances of profit and loss, between such periods as the state board of equalization may determine.

11. **Other matters. Subsidiary companies. Defined.** Such other matters as the state board of equalization may deem necessary in order to enable it to assess and levy the taxes provided for in section fourteen of article thirteen of the constitution of this state.

Each such company shall include in its report the property and business of all subsidiary companies as that term is hereinafter defined in this section, whose property and business are operated by it, whether by virtue of a lease, an operating contract or agreement, of by virtue of control through the ownership of stock or otherwise, even though such subsidiary companies maintain an independent legal existence and separate accounts.

The term "subsidiary company" is hereby defined as applying to a company which is merged in the operating system of an operating company in any of the ways above stated, whose property and franchises would be taxable under section three thousand six hundred sixty-four *a* of this code if the same were operated independently. No separate report need be rendered by a subsidiary company whose property, franchises, and operations are fully and completely covered by the report of an operating company, unless the state board of equalization shall deem such a separate report necessary.

Each such company operating the property or business of a subsidiary company in some line of business to which a different percentage of the gross receipts is applied by said section from that applied by said section to the gross receipts of the operating company, shall report such receipts of the subsidiary company separately. [New section added May 11, 1917; Stats. 1917, p. 343.]

§ 3666. Notice by assessor of property regarded nonoperative. Hearing. 1. If any assessor finds in the report of the operative property in his county, city and county, municipality, or district, furnished to him by any of the companies as required in section three thousand six hundred sixty-five *c* of this code, any piece or parcel of property which he regards as nonoperative property, or partially operative and partially nonoperative, he shall, within thirty days after receiving such report, notify the state board of equalization thereof by mail, which notice shall contain a general description of the property and the assessor's reasons for regarding the same as nonoperative property. He shall also mail a copy of the notice to the company whose property is involved. The said board shall investigate the nature of the property and its use, and, if an agreement between the said board, the assessor, and the company as to the proper classification of such property cannot be reached, then the said board shall, under such rules of notice as it may deem reasonable, set a date for a hearing, at which the assessor and the company may be present or represented. At such hearing the board shall, from the evidence presented and from the best information it can obtain decide the matter in dispute, and determine whether such property is operative or nonoperative or in what proportion operative and in what proportion nonoperative. The said board shall enter its decision in its minutes, and shall send a copy thereof to the county assessor and the company, and also to the proper officer of any municipality affected thereby. Said decision shall be binding upon all parties, the state, the county, city and county, municipality, or district, and the company, unless set aside by a court of competent jurisdiction, and each such assessor must note the decision on his assessment-roll, and must assess such property accordingly.

2. **Notice by state board of equalization of property regarded nonoperative. Hearing.** If the state board of equalization shall find in the report of operative property furnished to said board by any company under the provisions of section three thousand six hundred sixty-five *c* of this code, any piece or parcel of property which said board regards as nonoperative property, or partially operative and partially nonoperative, the board shall, within thirty days after receiving such report, notify said company thereof in writing, which notice shall contain a

general description of the property and the reasons for regarding the same as nonoperative. It shall also mail a copy of the notice to any assessor in whose county, city and county, municipality, or district the property is located. If an agreement between the said board, the assessor, and the company as to the proper classification of such property cannot be reached, then the said board shall, under such rules of notice as it may deem reasonable, set a date for a hearing, at which the assessor and the company may be present or represented. At such hearing the board shall, from the evidence presented and from the best information it can obtain, decide the matter in dispute, and determine whether such property is operative or nonoperative, or in what proportion operative and in what proportion nonoperative. The said board shall enter its decision in its minutes, and shall send a copy thereof to the county assessor and the company, and also to the proper officer of any municipality affected thereby. Said decision shall be binding upon all parties, the state, the county, city and county, municipality, or district, and the company, unless set aside by a court of competent jurisdiction, and each such assessor must note the decision on his assessment-roll and must assess the property accordingly. [New section added May 11, 1917; Stats. 1917, p. 345.]

Old section 3666 relating to the record of assessment of railways was repealed May 11, 1917; Stats. 1917, p. 336.

§ 3666a. Report by insurance commissioner. List of companies subject to additional tax. Statements by companies to insurance commissioner. The insurance commissioner of this state must on or before the last day of March in each year make and file with the state board of equalization a report showing:

1. All companies, domestic and foreign, and all firms, associations, or persons, engaged in the business of insurance in this state.

2. The total amount of the gross premiums received from its business in this state by each of said companies, firms, associations, and persons during the year ending the thirty-first day of December last preceding.

3. The amount of return premiums paid on business done in this state and the amount of reinsurance on business done in this state paid to other insurance companies or associations authorized to do business in this state, by said companies, firms, associations, and persons, during said year.

4. The amount of any county and municipal taxes paid during said year by such companies on real estate owned by them in this state, and where said real estate is located.

In making this report he shall list separately all those companies, firms, associations, or persons, which, under the second proviso in subdivision (b) of section fourteen of article thirteen of the constitution and of section three thousand six hundred sixty-four *b* of this code, are subject to a tax at a rate higher than two per cent on their gross premiums, or to any additional tax or burden, and shall indicate in each case the amount and character of said tax or burden. Every company, firm, association, or person engaged in the business of insurance in this state shall file with the insurance commissioner on or before the first Monday in March in each year such statements in addition to, or in modification of, the

statements required to be rendered under the provisions of article sixteen of chapter three of title one of part three of the Political Code as said insurance commissioner shall deem necessary to enable him to prepare the report required of him in this section and said statements shall be verified in the same manner as is provided for the verification of other statements by insurance companies in section six hundred ten of the Political Code, except that, those filed by foreign companies shall be verified by the oath of the manager thereof residing within this state. [New section added May 11, 1917; Stats. 1917, p. 347.]

§ 3666b. **Statement by banks.** The president, secretary, treasurer, cashier, or such other officer as the state board of equalization may determine, of every bank referred to in section fourteen of article thirteen of the constitution of this state, shall on the first Monday in March or within ten days thereafter make and file with the state board of equalization a sworn statement showing the condition of said bank at the close of business on the first Monday in March, and showing the amount of its authorized capital stock, the number of shares issued and the par value thereof, the amount received for stock issued, the amount of its surplus and undivided profits, if any, a complete list of the names and residences of its stockholders and the number of shares held by each as of record on the books of the bank at the close of business on the first Monday in March; or, in the case of unincorporated banks and bankers, of banks having no capital stock and of branches, agencies, or other representatives of banks doing business outside of this state, the moneyed capital, reserve, surplus, undivided profits, and other taxable property, as further defined in section fourteen of article thirteen of the constitution of this state, used by them in the banking business in this state, also a description of the real estate, other than mortgage interests therein, and the value of each piece thereof as assessed for the purpose of county taxation for the then current fiscal year.

Branches, agencies, or other representatives of banks doing business outside of this state shall report the average amount owed by said branches, agencies, or representatives, to the banks of which they are branches, agencies, or representatives, during the year ending the first Monday in March, also a description of the real estate other than mortgage interests therein, and the value of each piece thereof as assessed for the purpose of county taxation for the then current fiscal year.

The state board of equalization shall prescribe the form of reports, the manner of their verification, and may require the submission of tax receipts, or copies thereof certified to be correct by any notary public, in order to verify the statements as to the assessed value of the real estate, and may require such further information or statements as said board may deem necessary. [New section added May 11, 1917; Stats. 1917, p. 347.]

§ 3666c. **Report on corporations by secretary of state.** The secretary of state shall daily report to the state board of equalization the name, corporate number, principal place of business, date of incorporation, term of existence, funded debt, if any, authorized capital stock, and postoffice address of all corporations, whether formed under the laws of this state

or of any other state or country, a copy of the articles of incorporation of which is filed in his office and corporations which are authorized to do business in this state. He shall also report at said time all certificates of increase or decrease of capital stock or funded debt, dissolution, or other termination of corporate existence, change of name, consolidation and mergers, change of principal place of business, and such other information regarding corporations as said state board may require to assist it in making the assessments and levying the taxes as provided in section fourteen of article thirteen of the constitution of this state. [New section added May 11, 1917; Stats. 1917, p. 348.]

§ 3667. **Report by holders of franchises.** The owner or holder of every franchise subject to taxation as provided in section three thousand six hundred sixty-four *d* of this code, shall within ten days after the first Monday in March in each year make a written report to the state board of equalization, signed and sworn to by the holder or owner himself, if an individual, or by one of the copartners if such owner or holder is a copartnership, or by the president or vice-president and the treasurer or secretary if the owner is a corporation, containing such a concise statement or description of every franchise possessed or enjoyed on said day by such owner or holder, as the state board of equalization may prescribe, a copy of the law, grant, ordinance, or contract under which the same is held, or if possessed or enjoyed under a general law, a reference to such law, a statement of any condition, obligation, or burden imposed upon such franchise, or under which the same is enjoyed, and containing also:

1. **Name, etc.** The name of the company, its nature, whether a person or persons, a partnership (with names of partners), an association, or corporation, and under the laws of what state, territory, or country organized, the nature of its business, the location of its principal place of business, the names and postoffice addresses of its president, secretary, auditor, treasurer, superintendent, and general manager, the location of its principal place of business in this state, the name and postoffice address of its chief officer or managing agent in this state, and the names and addresses of all subsidiary companies whose property and business are operated by it.

2. **Capital stock.** The amount of its authorized capital stock, the amount thereof issued and outstanding on the first Monday in March, and the amount paid in thereon or the value of the property received therefor.

3. **Debts.** The funded and floating debts and the interest paid thereon showing separately the debts of the operating company and of any subsidiary companies in this state on the thirty-first day of December last preceding.

4. **Value of stock.** The market value of the stock and of the outstanding bonds, or, when said stock or bonds have no market value, the actual value thereof, for such periods and for such dates as the state board of equalization shall prescribe.

5. **Assessed value of property.** The assessed value of its property as shown by the last completed assessment-roll in each county, city and county, and city in the state for the purposes of taxation, and if any property of such corporation be assessed and taxed outside of the state of California the place where assessed, the amount of such assessment and taxes there paid the current fiscal year.

6. **Value of property.** The market and actual value of all non-assessable real and personal property owned by such company.

7. **Amount and value of property.** The amount and actual value of all of said real and personal property referred to in the last two preceding subdivisions of this section that is owned and possessed by the company at the date of its report; also, the amount and actual value of any other and additional real or personal property owned by the company at the date of said report.

8. **Dividends.** The dividends paid during the year ending the thirty-first day of December last preceding, the surplus fund, if any, on said thirty-first day of December, or between such periods as the state board of equalization may determine. Those of the operating company and of each subsidiary company in this state to be shown separately.

9. **Gross receipts.** The gross receipts from all sources for the year ending the thirty-first day of December last preceding, from the entire property and business, the gross receipts from such classes of business as the state board may designate, to be reported separately; also, the total gross receipts from intrastate business and from interstate business so far as the same relate to this state, the same to be separately stated.

10. **Expenses.** The operating and other expenses.

11. **Profit and loss.** The balances of profit and loss, between such periods as the state board of equalization may determine.

12. **Other matters.** Such other matters as the state board of equalization may deem necessary in order to enable it to assess and levy the taxes provided for in section fourteen of article thirteen of the constitution of this state. The state board of equalization shall ascertain and determine from the foregoing reports or from the best information it can obtain the actual cash value on the first Monday in March of each such franchise, and shall assess and levy the taxes thereon in accordance with the provisions of subdivision (d) of section fourteen of article thirteen of the constitution of this state. [New section added May 11, 1917; Stats. 1917, p. 349.]

The old section 3667, relating to the notice to the controller of the county rate of taxation, was repealed in 1917 (Stats. 1917, p. 336).

§ 3667a. **Report by assessor or auditor.** Every assessor or auditor shall, in the manner, at the times, and for the year required by the state board of equalization, report to said board upon such forms as may be prescribed by said board the valuation placed by him upon the property of any company subject to an assessment upon its franchise

under the provisions of sections three thousand six hundred sixty-four *d* and three thousand six hundred sixty-seven of this code. [New section added May 11, 1917; Stats. 1917, p. 350.]

§ 3667b. **Estimates by state board of equalization when no report furnished. Penalty.** If any company mentioned in section three thousand six hundred sixty-four of this code shall fail or refuse to furnish to the state board of equalization within the time prescribed by law the verified report provided for by law, the state board of equalization must note such failure or refusal in the record of assessments for state taxes provided for in section three thousand six hundred sixty-eight *a* of this code, and must make an estimate of the amount of the gross receipts, gross premiums, value of the shares of capital stock, or value of the franchises, of such company and must assess the same at the amount thus estimated, which assessment shall be the assessment upon which the taxes upon the property or franchise of the company for such year shall be levied and collected. And if in the succeeding year any such company shall again fail or refuse to furnish the verified report required by law, the state board shall make an estimate of the amount of the gross receipts, gross premiums, value of the shares of capital stock, or value of the franchise of such company, which estimate shall not be less than twice the amount of the estimate made by said board in the previous year, and shall note such failure or refusal as above provided, and the said estimate so made shall be the assessment upon which the taxes upon the property or franchise of the company for such year shall be levied and collected. In case of each succeeding consecutive failure or refusal the said board shall follow the same procedure until a true statement shall be furnished.

Any company failing or refusing to make and furnish any report prescribed by law to be made to the state board of equalization, or rendering a false or fraudulent report shall be guilty of a misdemeanor and subject to a fine of not less than three hundred dollars and not exceeding five thousand dollars for each such offense.

Any person required to make, render, sign, or verify any report, as aforesaid, who makes any false or fraudulent report, with intent to defeat or évade the assessment required by law to be made, shall be guilty of a misdemeanor, and shall for each such offense be fined not less than three hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year in the county jail of the county where said report was verified, or be subject to both said fine and imprisonment, at the discretion of the court. [New section added May 11, 1917; Stats. 1917, p. 350.]

§ 3667c. **Extension of time for report.** The state board of equalization may, for good cause shown, by order entered upon its minutes, extend for not exceeding thirty days, the time fixed for filing any report required by said board. [New section added May 11, 1917; Stats. 1917, p. 351.]

§ 3668. **Assessment and levy of taxes. Request of bank to assess entire taxable value of shares of stock. Form. Notice of completion of**

assessments. The state board of equalization must meet at the state capital on the first Monday in March of each year, and continue in open session from day to day, Sundays and holidays excepted, until the first Monday in July. Between the first Monday in March and the third Monday before the first Monday in July the board must assess and levy the taxes as and in the manner provided for in section fourteen of article thirteen of the constitution of this state, and sections of this code enacted to carry the same into effect.

The assessments must be made to the company, person or association owning or operating the property subject to said tax, or, in the case of banks, banking associations, savings and loan societies and trust companies, to the stockholders therein; provided however, that in the case of banks of liquidation the assessment shall be made to the receiver, trustee or officer in charge of such liquidation, as the case may be, as the representative of the stockholders thereof.

If the name of the owner is unknown to the board, such assessment must be made to unknown owners.

Clerical errors occurring or appearing in the name of any company, person, association, or stockholder whose property is correctly assessed, or in the making, or extension of any assessment upon the records of the state board of equalization, which do not affect the substantial rights of the taxpayer, shall not invalidate the assessment.

Provided, however, that if any bank shall by resolution of its board of directors, request the state board of equalization to assess to and in the name of such bank so requesting, the entire taxable value of all the shares of the capital stock of such bank, as determined by said state board, instead of assessing such shares to and in the name of the individual stockholders or shareholders owning the same, and if such bank shall promise that it will, upon being notified by said state board, of such assessment thereof to said bank, and of the amount of taxes to be paid upon such assessment, pay such taxes at the times when taxes assessed and levied under the provisions of section fourteen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect are due and payable, which request to assess said bank and promise to pay said tax shall be in substantially the following form:

The state board of equalization is hereby instructed to assess in the name of this bank and not to the individual stockholders or shareholders therein, the taxable value of all the shares of capital stock in this bank and such bank hereby promises to pay to the state treasurer the amount of the tax levied upon such assessment when such taxes are due and payable under the laws of this state.

____ ____

By (here insert title of official signing.)

Then the state board may assess the capital stock to and in the name of such bank and said promise to pay the taxes shall be binding upon such bank and collection of such taxes from such bank may be enforced in the manner and by the same method as is provided for the collection of other taxes assessed and levied under the provisions of section four-

teen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect.

On the third Monday before the first Monday in July the said board shall publish a notice in one daily newspaper of general circulation published at the state capital, in one daily newspaper of general circulation published in the city and county of San Francisco, and in one daily newspaper of general circulation published in the city of Los Angeles, that the assessment of property for state taxes has been completed, and that the record of assessments for state taxes will be delivered to the controller on the first Monday in July, and that if any company, person, or association is dissatisfied with the assessment made by the board, it may, at any time before the taxes thereon shall become due and payable, apply to the board to have the same corrected in any particular. The board shall have power at any time on or before the first Monday in July to correct the record of assessments for state taxes and may increase or decrease any assessment therein if in its judgment the evidence presented or obtained warrants such action. [New section added May 11, 1917; Stats. 1917, p. 351.]

The old section 3668, relating to the publication by the controller, was repealed in 1917 (Stats. 1917, p. 336).

§ 3668a. Record of assessments for state taxes. Certificate. The state board of equalization must prepare each year a book, in one or more volumes, to be called the "record of assessments for state taxes," in which must be entered, either in writing or printing, or by both writing and printing, each assessment and levy made by said board upon the property and franchises mentioned in section three thousand six hundred sixty-four of this code, describing the property assessed, and such assessments shall be classified and entered, in such separate parts of said record as the board shall prescribe. On the first Monday in July the secretary of the state board of equalization must deliver to the controller of state the record of assesments for state taxes, certified to by the chairman and secretary of the board, which certificate shall be substantially as follows: "We, ——, chairman, and ——, secretary, of the state board of equalization of the state of California do hereby certify, that between the first Monday in March and the first Monday in July, 19—, the state board of equalization made diligent inquiry and examination to ascertain all property and companies subject to assessment and taxation for state purposes, as required by the constitution of this state; that said board has faithfully complied with all the duties imposed upon it by the constitution and laws of the state of California; that said board has not imposed any unjust or double assessment through malice or ill will, or otherwise; nor allowed any company or property to escape a just assessment through favor or reward, or otherwise."

But the failure to subscribe such certificate to such record of assessments for state taxes, or any certificate, shall not in any manner affect the validity of any assessment. Such record of assessments shall constitute the warrant for the controller to collect the taxes assessed and levied upon the property and franchises mentioned in section three

thousand six hundred sixty-four of this code. [New section added May 11, 1917; Stats. 1917, p. 353.]

§ 3668b. Taxes payable, when. Taxes not fully secured by personal property. Sale of property at public auction. Notice. Bill of sale. Notice by state controller. The taxes assessed and levied as provided in section fourteen of article thirteen of the constitution of this state, and in and by the provisions of this code enacted to carry the same into effect, shall be due and payable on the first Monday in July in each year, and one-half thereof shall be delinquent on the sixth Monday after said first Monday in July at six o'clock P. M., and unless paid prior thereto, fifteen per cent shall be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock P. M., an additional five per cent shall be added to the amount thereof; and the unpaid portion, or the remaining one-half of said taxes shall become delinquent on the first Monday in February next succeeding the day upon which they became due and payable, at six o'clock P. M.; and if not paid prior thereto five per cent shall be added to the amount thereof; provided, that all taxes provided for or levied under said section fourteen of article thirteen of the constitution of this state and the provisions of this code enacted to carry the same into effect which are not fully secured by real property are due and payable at the time the assessment is made. When in the opinion of the state board of equalization any of the taxes provided for in this section are not a lien upon real property sufficient to secure the payment of the taxes, said board may direct the controller, or his duly authorized representative, to collect the same at any time before the first Monday in August thereafter, and the controller may collect the taxes by seizure and sale of any property owned by the company against whom the tax is assessed.

The sale of any property so seized shall be made at public auction and of a sufficient amount of the property to pay the taxes, penalties and costs, and be made after one week's notice of the time and place of such sale given by publication in a newspaper of general circulation published in the county where the property seized is situate, or if there be no newspaper of general circulation published in such county, then by posting of such notice in three public places in such county.

Said notice shall contain a description of the property to be sold together with a statement of the amount of the taxes, penalties and costs due thereon and the name of the owner of said property and a further statement that unless the taxes, penalties and costs are paid on or before the day fixed in said notice for such sale of said property, or so much thereof as may be necessary to pay said taxes, penalties and costs, said property will be sold in accordance with law and said notice.

On payment of the price bid for any property sold, the delivery thereof with bill of sale executed by the controller vests the title in the purchaser. The unsold portion of any property so seized, may be left at the place of sale at the risk of the owner. All of the proceeds of any such sale in excess of the taxes, penalties, and costs, must be returned to the owner of the property sold, and until claimed must be

deposited with the state treasurer, as trustee for such owner, and subject to the order of the owner thereof, his heirs, or assigns.

Within ten days after the receipt of the record of assessments for state taxes, the controller must begin the publication of a notice to appear daily for two weeks, in one daily newspaper of general circulation published at the state capital, in one daily newspaper of general circulation published in the city and county of San Francisco, and in one daily newspaper of general circulation published in the city of Los Angeles, specifying:

1. That he has received from the state board of equalization the record of assessments for state taxes.

2. That the taxes therein assessed are due and payable on the first Monday in July and that one-half thereof will be delinquent on the sixth Monday after the first Monday in July at six o'clock P. M., and that unless paid to the state treasurer at the capital prior thereto, fifteen per cent will be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock P. M., an additional five per cent will be added to the amount thereof; and that the remaining one-half of said taxes will become delinquent on the first Monday in February next succeeding the day upon which they became due and payable, at six o'clock P. M.; and if not paid to the state treasurer at the capital prior thereto, five per cent will be added to the amount thereof. [New section added May 11, 1917; Stats. 1917, p. 354.]

§ 3668c. Taxes lien on property and franchises. The taxes levied under the provisions of section fourteen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect shall constitute a lien upon all the property and franchises of every kind and nature belonging to the companies subject to taxation for state purposes, which lien shall attach on the first Monday in March of each year. Every tax herein provided for has the effect of a judgment against the company, and every lien created by the constitutional and statutory provisions aforesaid has the effect of an execution duly levied against all property of the delinquent; the judgment is not satisfied nor the lien removed until such taxes, penalties, and costs are paid, or the property sold for the payment thereof. No final discharge in bankruptcy or decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the secretary of state file any such discharge or decree, or file any other document by which the term of existence of any corporation shall be reduced or terminated until all taxes, penalties, and costs due on assessments made under the constitutional and statutory provisions aforesaid shall have been paid and discharged. [New section added May 11, 1917; Stats. 1917, p. 355.]

§ 3669. Taxes paid to state treasurer. 1. All taxes assessed and levied under the provisions of section fourteen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect shall be paid to the state treasurer, upon the order of the controller, without deduction for any taxes assessed and levied to pay

the principal and interest of any bonded indebtedness mentioned in subdivision (e) of section fourteen of article thirteen of the constitution of this state, and the amount due to the cities, cities and counties, counties, towns, townships, and districts on account of said taxes assessed and levied for such bonded indebtedness shall be paid to said cities, cities and counties, counties, towns, townships, or districts in the manner provided by law. The controller must mark the date of payment of any tax on the record of assessments for state taxes.

2. **Controller's receipt.** The controller must give a receipt to the person paying any tax, or any part of any tax, specifying the amount of the assessment and the tax, or part of tax, paid, and the amount remaining unpaid, if any, with a description of the property assessed; provided, that the receipt for the second half of the taxes may refer, by number or in any other intelligible manner, to the receipt given for the first half of said taxes, in lieu of a description of the property assessed.

3. **Taxes in excess of what was legally due.** Whenever any taxes, penalties, or costs collected and paid to the state treasurer as hereinbefore provided, shall have been paid more than once, or shall have been erroneously or illegally collected, or when any taxes shall have been collected and paid pursuant to said provisions of law upon a computation erroneously made by reason of clerical mistake of the officers or employees of the state board of equalization, or shall have been computed in a manner contrary to law, the state board of equalization shall certify to the state board of control the amount of such taxes, penalties, or costs, collected in excess of what was legally due, from whom they were collected or by whom paid, and if approved by said board of control, the same shall be credited to the company or person to whom it rightfully belongs, at the time of the next payment of taxes. No claim for such credit shall be so audited, approved, allowed, or paid unless presented within one year after the payment sought to be refunded.

4. **Cancellation of assessment.** In case the assessment of any property or any company is duplicated upon the record of assessments for state taxes, or there appears thereon the assessment of any company whose charter has been forfeited or right to do business in this state has been forfeited, or the assessment of any company which, for any reason, could not be legally assessed, the state board of equalization or the controller shall certify such fact to the state board of control and said board of control shall authorize the cancellation of such assessment. [New section added May 11, 1917; Stats. 1917, p. 356.]

The old section 3669, providing that certain taxes were to be paid to the state treasurer, was repealed in 1917 (Stats. 1917, p. 336).

§ 3669a. Action for recovery of tax. 1. Any company, person or association claiming and protesting as herein provided that the assessment made against him or it by the state board of equalization is void in whole or in part may bring an action against the state treasurer for the recovery of the whole or any part of such tax, penalties or costs paid on such assessment upon the grounds stated in such protest, but no such action may be brought later than the third Monday in February next following the day on which the taxes were due, nor unless such com-

pany, person or association shall have filed with the state controller at the time of payment of such taxes a written protest stating whether the whole assessment is claimed to be void, or if a part only, what part, and the grounds upon which such claim is founded; and when so paid under protest the payment shall in no case be regarded as voluntary.

2. **Procedure.** Whenever under the provisions of this section an action is commenced against the state treasurer, a copy of the complaint and of the summons must be served upon the treasurer, or his deputy. At the time the treasurer demurs or answers, he may demand that the action be tried in the superior court of the county of Sacramento, which demand must be granted. The attorney general must defend the action. The provisions of the Code of Civil Procedure relating to the pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes. In any such action the court shall have power to render judgment for plaintiff for any part or portion of the tax, penalties or costs found to be void and so paid by plaintiff upon such assessment.

3. **No judgment for plaintiff, when.** In no case shall any judgment be rendered in favor of plaintiff in any action brought against the state treasurer to recover any tax, when said action is brought by or in the name of an assignee of the person, company or corporation paying said tax, or by any person, company or corporation other than the person, company or corporation that has paid said tax. [New section added May 11, 1917; Stats. 1917, p. 357.]

§ 3669b. **Reassessment.** Every assessment of property made after November 8, 1910, under the provisions of section fourteen, article thirteen of the constitution and under the provisions of any law enacted to carry into effect said section of the constitution which is, or may hereafter be adjudged to be invalid by reason of any illegality, invalidity, or irregularity, declared or existing, in the assessment of such property, or in the mode provided for the assessment thereof, shall be remade and the property reassessed and equalized for each year for which such assessment is invalid as aforesaid, and for the year for which the assessment of such property was invalid as aforesaid, and such reassessment and equalization shall be made by the same officers and boards, at the same time or times, as are prescribed by law for the assessment and equalization of property, of the same classes or kinds as the property which hereby is required to be reassessed. The assessment and equalized assessment of such property shall be entered on the several assessment-rolls or books in the same manner that assessments of such property are or were required by law to be entered for the year or years for which such reassessments shall be made. And there is hereby levied for state purposes the same rates of taxation for each of such respective years as were levied upon such property for each of said years for said state purposes.

2. **Manner of reassessment.** All property herein and hereby authorized to be reassessed shall be reassessed and equalized by the proper officers and boards at the value to which and to the person or corporation to

whom or to which such property ought, for each of such years, to have been assessed, under such rules of notice and at the times and in the modes as are prescribed for the assessment and equalization of like classes of property; and the assessment and equalization thereof, and the levy and collection of taxes thereunder, shall be made by the proper officers at the time, upon like notice and in the manner now or hereafter provided by law for making assessments and equalizing the same, and for the levy and collection of taxes on like classes of property; and if the taxes so relevied shall become delinquent; there shall be added thereto and the amount thereof the same percentage as a penalty for such delinquency as is added to other delinquent taxes on like classes of property; and such delinquent taxes and penalties added thereto shall be collected by the proper officers in the manner now or hereafter provided by law for the collection of delinquent taxes and penalties upon like classes of property, the collectors of such taxes to allow as credits thereon all payments theretofore made on the tax as first levied.

3. **No limitation on action for collection of taxes.** There shall be no limitation or limitations as to the time in which actions for the collections of taxes levied under this section may be commenced, and all the provisions of law now or hereafter provided in respect to assessments, equalization, levy, and collection of taxes shall, where applicable, apply to reassessments, equalization, and relevies and collections of taxes made under the provisions of this section. [New section added May 11, 1917; Stats. 1917, p. 357.]

§ 3669c. Suspension of corporate powers on failure to pay taxes List sent to county clerk and county recorder. 1. Within ten days after the first Monday in February, the controller shall send by mail to the last known address of any company whose taxes are delinquent a notice of the amount of said taxes, penalties, and costs, and that if the said taxes, penalties, and costs are not paid on or before the Saturday preceding the first Monday in March next thereafter at six o'clock P. M. of said day, the corporate powers, rights and privileges of such delinquent company, if it be a domestic corporation, will be at that time suspended and thereafter incapable of exercise, and that if the delinquent company be a foreign corporation it will thereupon forfeit its right to do intrastate business in this state. If the taxes, penalties, and costs are not paid within the time specified in said notice, the controller shall, on said Saturday preceding the first Monday in March at six o'clock P. M. of said day, mark on the record of assessments for state taxes opposite the assessment of the delinquent corporation, the words "corporate powers suspended," if the delinquent corporation be a domestic corporation, and thereupon said corporate powers shall be suspended and incapable of exercise until restored as hereinafter provided; and if the delinquent corporation be a foreign corporation the controller shall mark on the record of assessments for state taxes opposite the assessment of such delinquent corporation the words "right to do intrastate business forfeited" and thereupon said right to do such business shall be so forfeited. He shall at once report to the secretary of state the name and number of charter of each corporation whose corporate powers have been

suspended or right to do business has been forfeited for nonpayment of taxes.

On or before the first Monday in April of each year the controller shall make a list of all corporations subject to the tax imposed under sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-four *b*, three thousand six hundred sixty-four *c*, and three thousand six hundred sixty-four *d* of this code and which have failed to pay the same and transmit a certified copy thereof to each county clerk and county recorder in this state. Said county clerks and county recorders shall file such certified copies in their respective offices in such manner that the same shall be preserved in the form of a permanent record of such office and easily identified by and available to the public. Said copies so certified by the controller and filed as herein provided shall in the case of each corporation state whether such corporation is a domestic or foreign corporation and specify the penalty which each corporation has incurred for failure to pay the tax imposed by this act. Such certified copies so filed with either of said county officers, or any copy thereof certified by the controller shall be received in evidence in any court in lieu of the original record on file with the controller and shall be prima facie evidence of the truth of all statements contained therein.

2. **Corporate powers suspended, when. Penalty for exercising powers of delinquent corporation.** After six o'clock P. M. of the Saturday preceding the first Monday in March in any year, the corporate rights, privileges and powers of every domestic corporation which has failed to pay said tax and money penalty shall, from and after said hour of said day, be suspended, and incapable of being exercised for any purpose or in any manner, except to defend any action brought in any court against such corporation, until said tax with all accrued penalties, and all taxes and charges due the state under the corporation license act are paid as hereinafter provided. The right and privilege of every foreign corporation to transact intrastate business in this state shall, for failure to pay said tax and money penalty, be forfeited at said hour of said day, and the controller shall make a record of such forfeiture. In the case of foreign corporations such forfeiture may be relieved and the corporation's privilege to transact intrastate business in this state restored in the manner hereinafter provided. After said hour of said day and until such taxes, penalties and charges are paid, every person who attempts or purports to exercise any of the rights, privileges or powers of any delinquent corporation, or, who transacts or attempts to transact any intrastate business in this state in behalf of any forfeited foreign corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days or more than five hundred days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business was had or occurred. Every contract made in violation of this section is hereby declared to be void.

3. **Procedure for restoration of powers. Controller's certificate.** All corporate powers, rights and privileges suspended, or forfeited may be revived and restored to full force and effect by the payment of all accrued taxes and penalties due to the state under sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-four *b*, three thousand six hundred sixty-four *c*, and three thousand six hundred sixty-four *d* of this code and the corporation license act. In case the application for such revivor and restoration is not made during the year in which such suspension or forfeiture occurred, such application shall not be granted nor a certificate of revivor issued to such corporation until there is paid to the controller in addition to said tax and money penalty due the state under said sections of this code for the year in which such suspension or forfeiture occurred, a sum of money equal to the tax, without penalty, imposed under the provisions of said sections of this code during the year in which such suspension or forfeiture occurred, for each year succeeding said year in which such suspension or forfeiture occurred. Upon payment of all such taxes and penalties, and upon payment of all other taxes due the state under the corporation license act of this state, the state controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate, when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such controller's certificates recorded by him. Upon presentation of such controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the secretary of state that subsequent to the date of such certificate of revivor the powers of said corporation have been suspended or its rights to do intrastate business forfeited.

4. **Action by controller to collect delinquent taxes. Service of summons. Evidence of unpaid taxes.** The controller may, on or before the thirtieth day of April next following said delinquency and suspension or forfeiture, bring an action in a court of competent jurisdiction in the county of Sacramento in the name of the people of the state of California, to collect any delinquent taxes, together with any penalties, or costs, which have not been paid in accordance with the provisions of this code and appearing delinquent upon the record of assessments for state taxes hereinbefore mentioned.

The attorney general must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required.

In the case of companies whose right to do business has been forfeited or corporate powers suspended, service of summons may be made upon the persons provided for by law to be served as agents or officers of any of such companies and such persons shall be deemed to be the agents

of such companies for all purposes necessary in order to prosecute such action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors thereof shall have the power and right to defend such action. Payment of the taxes and penalties, or amount of the judgment recovered in such action must be made to the state treasurer. In such actions the record of assessments for state taxes, or a copy of so much thereof as is applicable in said action, duly certified by the controller, or by the secretary of the state board of equalization, showing unpaid taxes against any company, person or association assessed by the state board of equalization, is prima facie evidence of the assessment upon the property and franchises, the delinquency, the amount of the taxes, penalties, and costs due and unpaid to the state, and that the company, person, or association is indebted to the people of the state of California in the amount of taxes and penalties therein appearing unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with. [New section added May 11, 1917; Stats. 1917, p. 358.]

§ 3669d. Procedure for relieving forfeiture. 1. Any corporation which has heretofore failed to pay any tax and penalty imposed under the provisions of section fourteen, article thirteen, of the constitution, and chapter three hundred thirty-five, statutes 1911 and amendments thereof, and for such nonpayment suffered a forfeiture of the charter of such corporation or of its right to do business in this state, may be relieved of such forfeiture, or may be restored to its right to do business in this state, upon making application therefor in writing and paying the tax and penalties for nonpayment of which such forfeiture occurred. Application for restoration, under the provisions of this section, shall be made in writing, shall be signed by four-fifths of the surviving trustees or directors of said corporation, duly verified by said trustees or directors, and filed with the state controller. In case such application for revivor is made in any year other than the year in which such forfeiture occurred then upon payment of twice the amount of the tax and penalty due the state for the year in which such forfeiture occurred, together with the amount of the license fee due the state under the corporation license tax act for the year in which such forfeiture occurred and for the year in which such revivor is sought, the state controller shall issue a certificate of revivor to such corporation, and thereupon such corporation is revived and its powers restored to full force and effect.

The revivor of a corporation under the provisions of this section shall be without prejudice to any action or proceeding, defense or right, which has occurred by reason of the original forfeiture.

2. **Reviving corporation under new name.** In case the name of any corporation which has suffered a forfeiture under the provisions of chapter three hundred thirty-five, statutes of 1911 or amendments thereof, has been adopted by any other corporation since the date of said forfeiture, or in case any corporation has adopted subsequent to such forfeiture any name so closely resembling the name of such reviving corporation as will tend to deceive, then such reviving corporation shall be entitled to a certificate of revivor pursuant to the terms of this section only upon the adopting by such corporation seeking revivor of

a new name, and in such case nothing in this section contained shall be construed as permitting such reviving corporation to carry on any business under its former name. Such reviving corporation shall have the right to use its former name or take such new name only upon filing an application therefor with the secretary of state, and upon the issuing of a certificate to such corporation by the secretary of state, setting forth the right of such corporation to take such new name or use its former name as the case may be. The secretary of state shall not issue any certificate permitting any corporation to take or use the name of any corporation heretofore organized in this state and which has not suffered a forfeiture under either of the acts in this section first above mentioned, or to take or use a name so closely resembling the name of any corporation heretofore organized in this state as will tend to deceive.

The provisions of title nine, part three of the Code of Civil Procedure, in so far as they conflict with this section of this code are not applicable to corporations seeking revivor under this section. [New section added May 11, 1917; Stats. 1917, p. 361.]

§ 3669e. Powers of state board of equalization. In addition to the powers and duties prescribed elsewhere in this code, it is the duty of the state board of equalization, and the said board shall have power, for carrying into effect the provisions for assessments under section fourteen of article thirteen of the constitution of this state:

1. **Prescribe forms.** To prescribe the forms upon which the reports required by sections three thousand six hundred sixty-five *c*, three thousand six hundred sixty-six *b* and three thousand six hundred sixty-seven of this code shall be made.

2. **Inspect property.** Whenever deemed necessary, to visit as a board, or by the individual members thereof, or to send its secretary or duly appointed representative to any portion of this state for the purpose of inspecting property and learning the value thereof, and of collecting information to enable it to justly assess and levy the taxes provided for as aforesaid.

3. **Call public officials.** To call before it, or any member thereof, or before its secretary or duly appointed representative on such visit, any public official, and to require him to produce any public record, papers or documents in his custody.

4. **Issue subpoenas.** To issue subpoenas for the attendance of witnesses or the production of books before the board, or any member thereof; which subpoenas must be signed by a member of the board and may be served by any person.

5. **Require attendance.** To require any person having knowledge of the business of any of the companies mentioned in section fourteen of article thirteen of the constitution of this state, or having the custody of the books and accounts of such companies, to attend before the board or any member thereof, or before the secretary or the duly appointed representative of said board and bring with him for inspection any books, or papers, of such company in his possession or under his control, and to testify under oath touching any matter relating to the assess-

ment to be made under the provisions of the constitution aforesaid. A member of the board, its secretary, or duly appointed representative is authorized to administer such oath.

6. **Examine books and accounts.** Said board of equalization is hereby authorized and empowered to examine the books and accounts of all companies required by law to report to it and to employ an expert accountant or accountants to assist in the examination of the books and accounts of any such companies when in the judgment of said board the exigencies of the case may so require.

7. **Unlawful to divulge information.** It shall be unlawful for any member or ex-member of the state board of equalization, or for any agent employed by it, or for the controller, or ex-controller, or for any person employed by him or for any person who may at any time have obtained such knowledge from any of the foregoing officers or persons, to divulge or make known in any manner whatever not provided by law, any of the following items of information concerning the business affairs of companies reporting to the said board:

(a) Any information concerning the business affairs of any company which is gained during an examination of its books and accounts or in any other manner, and which information is not required to be reported to the state board of equalization in the reports or statements provided for in paragraphs numbered one to twelve of section three thousand six hundred sixty-five *c* and paragraphs numbered one to ten of section three thousand six hundred sixty-seven of this code.

(b) Any information, other than the assessment and the amount of taxes levied, obtained by the state board of equalization in accordance with the provisions of sections three thousand six hundred sixty-five *c* and three thousand six hundred sixty-seven of this code, from any company other than any of those enumerated in sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-four *b* and three thousand six hundred sixty-four *c* of this code.

(c) Any particular item or items of information relating to the disposition of its earnings contained in the report of a quasi-public corporation which any such corporation may, by written communication specifying the items and presented at the time when it files its report, request shall be treated as confidential.

Provided, however, that the governor may authorize examination of such reports by other state officers, in which event the information obtained by such officers shall not be made public, and he may also direct that any of the information herein referred to be made public, in which event it shall no longer be unlawful to divulge or make known the same.

Any violation of the provisions of subdivision seven of this section shall be a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both, at the discretion of the court. [New section added May 11, 1917; Stats. 1917, p. 363.]

§ 3670. **Equalization of assessments on real estate of banks.** On the second Monday in August of each year the auditor of each county must

report to the state board of equalization, in addition to the items required to be so reported by him under section three thousand seven hundred twenty-eight of this code, the value of each piece of real estate other than mortgage interests therein belonging to each bank in his county as assessed and equalized for purposes of county taxation.

Whenever the state board of equalization is satisfied after investigation that any county assessor, or board of equalization, has assessed any real estate belonging to any bank above its full cash value and has thereby unjustly reduced the amount of taxes due the state from said bank, said state board shall, under such rules of notice to the clerk of the board of supervisors of the county affected thereby as the said state board shall deem reasonable, equalize the assessed value of such real estate and shall upon completion of said equalization issue an order to said assessor or board of equalization and to the county auditor of the county in which said real estate is located, fixing the assessed value of said real estate.

The value so equalized and fixed, and no other, shall be deemed the value, as assessed for county taxes, of such real estate, and the sole basis of taxation upon such real estate for county taxes.

A copy of the order certified by the secretary of the state board of equalization shall be prima facie evidence of the regularity of all proceedings of the board resulting in the action which is the subject matter of the order. [New section added May 11, 1917; Stats. 1917, p. 364.]

The old section 3670 relating to actions by the controller for taxes was repealed May 11, 1917; Stats. 1917, p. 336.

§ 3670a. Equalization of assessments on real estate of insurance companies. The state board of equalization shall immediately after the county and city assessments have been completed, ascertain the value of any real estate belonging to any insurance company as assessed and equalized for purposes of county and of city taxation.

Whenever the state board of equalization is satisfied after investigation that any county, city and county, city, or district assessor, or board of equalization, has assessed any real estate belonging to any insurance company above its full cash value and has thereby unjustly reduced the amount of taxes due the state from said insurance company, said state board shall, under such rules of notice to the clerk of the board of supervisors of the county or the proper officer of the city affected as the board shall deem reasonable, equalize the assessed value of such real estate and shall upon the completion of said equalization, issue an order to said assessor or board of equalization and to the county, city and county, city or district auditor or clerk of the county, city and county, city, or district in which said real estate is located, fixing the assessed value of said real estate.

The value so equalized and fixed, and no other, shall be deemed the value, as assessed for county, city and county, city, or district taxes, of such real estate, and the sole basis of taxation upon such real estate, for county, municipal and district taxes.

A copy of the order certified by the secretary of the state board of equalization shall be prima facie evidence of the regularity of all pro-

ceedings of the board resulting in the action which is the subject matter of the order. [New section added May 11, 1917; Stats. 1917, p. 365.]

§ 3670b. Segregation by assessor. Each county, city and county, city and district assessor must segregate on his assessment-roll, as directed by the state board of equalization:

1. **Assessments by state board of equalization.** The assessments made by the state board of equalization, and apportioned to the county, city and county, city, town, township, or district, upon the franchises, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this state under the provisions of the Political Code as the same existed and were in force on the seventh day of November in the year one thousand nine hundred ten; and

2. **Assessments by assessors. Equalization of assessments. Separate tax rate for bonded indebtedness. Payment by controller to county treasurer.** The assessments made by said assessors of any other property enumerated in subdivisions (a), (b), and (d) of section fourteen of article thirteen of the constitution of this state, which is located in the county, or city and county, or any city, town, township, or district in which it is subject to taxation for paying the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township, or district prior to the eighth day of November in the year one thousand nine hundred ten, as provided in subdivision (e) of section fourteen of article thirteen of the constitution of this state.

Immediately upon completion of the assessment and equalization of property for the purposes of taxation in each year the auditor or clerk of each county, city and county, city, town, or district must transmit to the state board of equalization a duplicate of that part of the assessment-roll containing the assessments and apportionments referred to in paragraphs one and two of this section.

Whenever the state board of equalization is satisfied after investigation that any county, city, or other assessor, or board of equalization, has assessed for taxation to pay the principal and interest of any bonded indebtedness created and outstanding by any county, city and county, city, town, township, or district prior to the eighth day of November in the year one thousand nine hundred ten, as provided in subdivision (e) of section fourteen of article thirteen of the constitution of this state, any of the property taxed exclusively for state purposes as provided in subdivisions (a), (b) and (d) of section fourteen of article thirteen of the constitution of this state, or has assessed for purposes of county, city and county, city, or district taxation the property other than the franchise of any company taxable for a franchise under subdivision (d) of said section and article of the constitution, above its full cash value and has thereby unjustly reduced the amount of taxes due the state on such property, said state board shall, under such rules of notice to the clerk of the board of supervisors of the county, or city and county, or to the city clerk of the city, affected thereby as the board shall deem reasonable, equalize the assessed value of such property, and

shall issue an order to said assessor or board of equalization and to the county or city auditor or clerk of the county, city and county, or city in which the property is located, fixing the assessed value of such property.

The value so equalized and assessed, and no other, shall be deemed the value of said property, and its assessment for taxes levied to pay the principal and interest of any such outstanding bonded indebtedness, and in the case of companies taxable for a franchise under said subdivision (d) of said section and article of the constitution shall be deemed the value of the said property, and its assessment for taxes for county, city and county, municipal and district purposes.

When making the tax levy and fixing the rates of taxation for county, city and county, city, town, township, or district purposes, the board of supervisors of any county, or city and county, and the corresponding authority in any city, having bonded indebtedness issued and outstanding on the eighth day of November in the year one thousand nine hundred ten, shall fix the tax rate for such bonded indebtedness separate and apart from all other tax rates, whether for subsequent bonded indebtedness or for other purposes.

The county, city and county, or city auditor or clerk shall extend on the assessment-roll against the assessments segregated as herein provided, the taxes necessary to pay the principal and interest of said bonded indebtedness at the same rate as said taxes for payment of principal and interest of said outstanding bonded indebtedness shall be levied upon the other classes of property within the same county, city and county, city, town, township, or district, and the amount of each such taxes shall be certified by said auditor or clerk to the controller and the amount so certified shall then be credited by the controller to the county, city and county, city, town, township, or district to which it is due; and said amount shall be paid by said controller to the treasurer of such county, or city and county as provided in section three thousand six hundred seventy c of this code, and upon such payment said treasurer shall forthwith certify such fact to the tax collector who shall thereupon mark upon the assessment-roll the date of payment and the words "paid by the state treasurer." The city clerk or auditor shall in the certificate mentioned in this paragraph also state the date when taxes in such city shall become delinquent. [New section added May 11, 1917; Stats. 1917, p. 366.]

§ 3670c. **Money credited to what fund.** 1. The controller shall out of the taxes collected by him under the provisions of section fourteen of article thirteen of the constitution of this state and the provisions of the sections of this code applicable thereto, credit to the fund created by an act of the thirty-ninth session of the legislature entitled: "An act appropriating money for the purpose of payment of that part of the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township or district on the eighth day of November in the year one thousand nine hundred ten, which is provided for in section fourteen of article thirteen of the constitution of this state, and as provided in an act of the thirty-ninth session of the legislature entitled 'An act to carry into

effect the provisions of section fourteen of article thirteen of the constitution of the State of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations for the benefit of the state, all relating to revenue and taxation,'" or any act or acts amendatory thereof or supplementary thereto, the money due to each county, city and county, city, town, township, or district on account of taxes to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township or district, on the eighth day of November in the year one thousand nine hundred ten.

2. **Time for settlements with county treasurer.** The controller shall in the months of October and March in each year settle with the treasurer of each county and city and county for the money collected by said controller under this section, for the moneys due said county or city and county and the townships and districts within such county or city and county, in the same manner as settlements are made between the county or city and county treasurers and the controller as provided for in section three thousand eight hundred sixty-six of this code.

3. **Settlement with city and town treasurers.** The controller shall at the same times, settle with each city and town for the moneys due such city or town for the purposes mentioned in this section, and when ready for such settlement shall notify the city or town treasurer of the amount of money due the city or town for said purposes, and that upon receipt of proper authority so to do, he will forward to said city or town treasurer a warrant for the amount thereof; provided, however, that upon receipt of notice from any such city or town treasurer that any bond issue matures for principal or interest before the date of such settlement, which notice shall state the amount thereof due from the state and the date of maturity, and that said amount due from the state is required in order to pay the same, the said controller must, before said date of maturity, forward his warrant to such city or town treasurer in the manner above provided for the amount ascertained by him to be due. The treasurer of the county or city and county shall forthwith, upon receipt by him of the moneys so hereinbefore directed to be paid by said controller, credit the amount so received by him to the county, city and county, township or district, respectively entitled thereto, and pay the same in the manner provided by law.

4. **Repayment of excess.** Any excess paid by the controller to a county, city and county, city, town, or to a county or city and county or any township or district, over and above the state's share of the amount actually expended by such county, city and county, city, town, township or district, to pay the interest and principal of said bonded indebtedness in any year, shall be repaid to the state in such manner as the controller shall direct. [New section added May 11, 1917; Stats. 1917, p. 367.]

§ 3671. **Reimbursement of counties until 1918.** Until the year one thousand nine hundred eighteen the state shall reimburse any and all

counties which sustain loss of revenue by the withdrawal of railroad property from county taxation for the net loss in county revenue occasioned by the withdrawal of railroad property from county taxation in the manner, at the times, and in the amounts specified in an act of the thirty-ninth session of the legislature entitled "An act to provide for the reimbursement of counties in this state which sustain net loss of revenue by the withdrawal of railroad property from county taxation, under the provisions of section fourteen of article thirteen of the constitution of this state," or any act or acts amendatory thereof or supplementary thereto. [New section added May 11, 1917; Stats. 1917, p. 369.]

The old section 3671, relating to the basis for county taxation was repealed May 11, 1917; Stats. 1917, p. 336.

§ 3671a. Expenses of county treasurer. The provisions of section three thousand eight hundred seventy-six of the Political Code shall not apply to the settlements made with the state treasurer under sections three thousand six hundred seventy *c* and three thousand six hundred seventy-one of this code, but the county board of supervisors may if it deem necessary allow the county treasurer the actual expenses incurred in collecting the money due the county from the state. [New section added May 11, 1917; Stats. 1917, p. 369.]

§ 3671b. Reimbursement of districts. The board of supervisors of each county shall in the month of September of each year determine the amount of loss to each district in the county where loss is occasioned in such district by the withdrawal from local taxation of property taxed for state purposes only, and in the month of December next thereafter shall reimburse such district from the general funds of the county for one-half of such loss, and in the month of May next thereafter shall reimburse such district from the general fund of the county for the remaining one-half of such loss. [New section added May 11, 1917; Stats. 1917, p. 369.]

§ 3671c. Tax to meet deficiency in state revenue. Any tax required to be levied for state purposes as provided in subdivision (e) of section fourteen of article thirteen of the constitution as amended the eighth day of November in the year one thousand nine hundred ten, to meet any deficiency in the state revenue shall be assessed, levied and collected on all property in the state, not exempt from taxation including the classes of property enumerated in section fourteen of article thirteen of the constitution of this state, under the provisions of the Political Code relating to the assessment, levy and collection of state and county taxes as said provisions were in force on the seventh day of November in the year one thousand nine hundred ten. [New section added May 11, 1917; Stats. 1917, p. 369.]

§ 3671d. Laws in effect. All laws in force prior to the eighth day of November in the year one thousand nine hundred ten, relating to taxation, in so far as said laws may be necessary for the assessment, levy, and collection of state, county, city and county, municipal or district taxes, or in so far as said laws may be necessary for the assess-

ment, levy and collection of the taxes for state purposes, on all the property in the state, not exempt from taxation, to meet a deficiency in the revenues for the support of the state government, or to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township, or district, both as provided in subdivision (e) of section fourteen of article thirteen of the constitution as amended on the eighth day of November in the year one thousand nine hundred ten shall be and remain, for such purposes, in full force and effect. [New section added May 11, 1917; Stats. 1917, p. 370.]

§ 3678. **Statement by auditor.** To assist the assessor in the performance of his duties, the auditor must annually transmit to the assessor, within ten days after the first Monday in March of each year, a complete and true statement of all property which has been redeemed under or by virtue of any sale made to the state for delinquent taxes, together with a complete and true statement of all property sold to the state and remaining unredeemed. [Amendment approved May 11, 1917; Stats. 1917, p. 430.]

§ 3679. **Supervisors to use record in equalizing assessments.** [Repealed May 11, 1917; Stats. 1917, p. 427.]

§ 3700a. **Salary, secretary state board of equalization.** The annual salary of the secretary of the state board of equaliztion is four thousand dollars, payable monthly in the same manner as the salaries of other state officers are paid. [New section added May 14, 1917; Stats. 1917, p. 473.]

§ 3701. **Duties of secretary.** It shall be the duty of the secretary to keep an accurate record of the proceedings of the board in a book specially provided for such purposes. When required by the board or the chairman he shall visit the several counties and collect data and information relative to the assessment of property therein, or the railway property therein, and consult and advise with all officers charged with enforcement of the revenue laws, and report such data and information to the board. To prepare, biennially, the report of the board to the governor, and when printed, to distribute such report, as required by law and as directed by the board. To do and perform all other acts and things enjoined by law or required by the board. The secretary is a civil executive officer and is authorized to administer and certify oaths in any county in the state. [Amendment approved May 11, 1917; Stats. 1917, p. 430.]

§ 3714. **Limit for bonded indebtedness.** The board of supervisors of each county must on the first Tuesday after the first Monday of September of each year, fix the rate of county taxes, designating the number of cents levied for each fund on each one hundred dollars of property, and must levy the state and county taxes upon the taxable property in the county; provided, that it shall not be lawful for any board of supervisors of any county in the state to levy, nor shall any tax greater than fifty cents on each one hundred dollars of property be levied and col-

lected in any one year, to pay the bonded indebtedness, or judgment arising therefrom, of this state, or of any county or municipality in this state. [Amendment approved March 20, 1917; Stats. 1917, p. 13.]

§ 3714a. **Statement of tax rate sent to controller.** When the board of supervisors of each county, and city and county shall have fixed the rate of county, or city and county taxation, the clerk of the board of supervisors must, within three days after such rate has been fixed, transmit by mail, postage paid, to the controller, in such form as the controller shall direct, a statement of the rate of taxation levied by the board of supervisors for county, or city and county taxation. If the clerk fails to transmit such statement in the time herein provided for, he shall forfeit to the state one thousand dollars, to be recovered in an action brought by the attorney general, in the name of the controller. [New section added May 11, 1917; Stats. 1917, p. 430.]

§ 3719. **Levy of state school tax.** [Repealed 1917; Stats. 1917, p. 431.]

§ 3728. **Statements from "assessment-book."** The auditor must, on or before the second Monday in August in each year, prepare from the "assessment-book" of such year, as corrected by the board of supervisors, duplicate statements, showing in separate columns—

1. The number of acres of land.
2. The total value of all property.
3. The value of real estate.
4. The value of improvements thereon.
5. The value of personal property, exclusive of money.
6. The amount of money.
7. Such other information as the state board of equalization may require. [Amendment approved May 11, 1917; Stats. 1917, p. 431.]

§ 3734. **Statement of amount charged sent to controller.** On delivering the assessment-book to the tax collector, the auditor must charge the tax collector with the full amount of the taxes levied, and forthwith transmit by mail to the controller of state, in such form as the controller may prescribe, a statement of the amount so charged. Any auditor failing to forward such statement to the controller within ten days after the roll has been delivered to the tax collector, forfeits to the state one thousand dollars, to be recovered in an action brought by the attorney general, in the name of the controller. [Amendment approved May 11, 1917; Stats. 1917, p. 431.]

§ 3753. **Statement by tax collector.** On the first Monday in each month the tax collector must settle with the auditor for all moneys collected for the state or county, and pay the same to the county treasurer, and on the same day must deliver to and file in the office of the auditor a statement under oath, showing:

1. An itemized account of all his transactions and receipts since his last settlement, which account must show the amount collected for each fund or district extended on the assessment-book.

2. That all money collected by him as tax collector has been so paid to the county treasurer. [Amendment approved May 11, 1917; Stats. 1917, p. 431.]

§ 3757. When taxes become delinquent. [Repealed 1917; Stats. 1917, p. 431.]

§ 3769a. Land sold for taxes encumbered by trust deed or mortgage. [Repealed 1917; Stats. 1917, p. 431.]

§ 3787. Tax deed conclusive evidence. Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings, from the assessment by the assessor, inclusive, up to the execution of the deed.

Such deed conveys to the state the absolute title to the property described therein, free of all encumbrances, except any lien of taxes levied for municipal or irrigation district purposes and except when the land is owned by the United States or this state; in which case it is the prima facie evidence of the right of possession, accrued as of the date of the deed to the state. [Amendment approved May 5, 1917; Stats. 1917, p. 241.]

§ 3804b. Property assessed by two or more counties. Cancellation of double assessment. Where real property shall hereafter be assessed by the assessors of two or more counties for the same year the owner thereof may file an action in the superior court of one of said counties against the conflicting claimants and discharge the obligation by paying the largest amount of taxes assessed and levied on said land by any of said counties into court and compel said counties to interplead and litigate their several claims among themselves in accordance with section three hundred eighty-six of the Code of Civil Procedure. Where real property has heretofore been assessed by the assessors of two or more counties for the same year and the owner thereof has paid all of the taxes on one of such assessments, upon proof of the payment of such taxes on one of such assessments for any year, by the production of a tax receipt or certificate of the auditor of the county in which such payment has been made, the board of supervisors of any other county claiming the right to assess and tax such real property, shall thereupon enter an order upon its minutes directing the auditor to cancel such double assessment of such property by an entry on the margin of the assessment-book, as also upon the delinquent list, should such double assessment be carried therein. If the property assessed under such double assessment has been sold to the state and a certificate of sale or deed therefor has been issued to the state, the order of the board shall further direct the recorder to cancel such erroneous certificate and deed so issued except where the state has disposed of the property thereby conveyed. [New section added April 13, 1917; Stats. 1917, p. 118.]

§ 3818. Partial redemption of land sold for delinquent taxes. If land has separate valuation. If no separate valuation. Notice. Hearing of protest. In all cases where a lot, piece, or parcel of land contained in any assessment has been sold or may hereafter be sold for delinquent

taxes to the state, and the state has not disposed of the same, a partial redemption may be made, separately from the whole assessment, of any such lot, piece or parcel of land as follows:

If such lot, piece or parcel of land has a separate valuation on the assessment-roll, such partial redemption shall be made in the manner following: In the estimate provided for in the preceding section, the auditor shall estimate the amount of state and county taxes due on such lot, piece or parcel of land, together with a proper proportion of the taxes due on personal property under such assessment, and of the taxes due each school, road, lesser or other taxation district; and such redemption shall be made in the manner provided for in the preceding section.

If such lot, piece or parcel of land does not have a separate valuation on the assessment-roll, the auditor shall investigate and ascertain the relative or proportionate value such lot, piece or parcel of real property bears to the whole tract assessed, and the auditor shall estimate the amount of such taxes due on such lot, piece or parcel of land according to such relative or proportionate value and the taxes due on any improvements on the portion sought to be so redeemed, together with a relative proportion of the taxes due on personal property under such assessment, and of the taxes due each school, road, lesser or other taxation district; whereupon such redemption shall be made in the manner provided for in the preceding section; provided, that no lot, piece or parcel of land owned or claimed under contract by the person so redeeming shall be divided for the purpose of such redemption. A notice by registered mail of the proposed division must be given by the auditor to the person or persons to whom the same was assessed, if known to the auditor, if not so known, by posting a notice of such proposed division for a period of twenty days in three public places in said county, and if no protest against said division be filed with the auditor within twenty days from the date of the posting or mailing of such notice, the auditor shall thereupon issue an estimate as above stated. In cases where written protest is filed within said twenty days to said division, the auditor shall withhold his estimate and refer the matter to the board of supervisors for decision. The board of supervisors shall set a time for hearing said protest, and cause a notice of the date of said hearing to be mailed by its clerk to the person or persons who have filed a written protest with the auditor, as above provided, at the postoffice address named in such protest, at least five days prior to the date of such hearing, and at the termination of said hearing may confirm the act of the auditor or modify or set aside the same and its decision in the premises shall be final. In the event of such reference to the board of supervisors and of their dividing the assessment, the estimate of the auditor shall conform to the action of the board. A partial redemption may be made, in like manner, separately from the whole assessment, of an undivided interest in any real property, if such property has a separate valuation on the assessment-roll; the auditor estimating the amount of taxes due on such undivided interest according to the proportion which such interest in said real property bears to the whole assessment. The recorder shall note, on the margin of the record of the certificate of sale a description of the property or undivided interest redeemed under this section, and shall spe-

cifically set forth the several amounts of taxes paid upon such redemption. [Amendment approved June 1, 1917; Stats. 1917, p. 1633.]

§ 3839. Persons liable to poll tax. [Repealed 1917; Stats. 1917, p. 432.]

§ 3840. When poll taxes to be collected. [Repealed 1917; Stats. 1917, p. 432.]

§ 3841. Blank poll tax receipts to be printed by county treasurer. [Repealed 1917; Stats. 1917, p. 432.]

§ 3842. Style of poll tax blanks to be changed each year. [Repealed 1917; Stats. 1917, p. 432.]

§ 3843. Duty of treasurer in relation to poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3844. Auditor to sign blank poll tax receipt and make entries. [Repealed 1917; Stats. 1917, p. 432.]

§ 3845. When auditor shall deliver poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3846. Poll tax may be collected by seizure and sale of present property. [Repealed 1917; Stats. 1917, p. 432.]

§ 3847. Mode of conducting seizure and sale of personal property for poll tax. [Repealed 1917; Stats. 1917, p. 432.]

§ 3848. Debtors of persons owing poll tax to pay poll tax for such persons. [Repealed 1917; Stats. 1917, p. 432.]

§ 3849. What officers are debtors under preceding section. [Repealed 1917; Stats. 1917, p. 432.]

§ 3850. Debtor may charge his creditor for such poll tax paid. [Repealed 1917; Stats. 1917, p. 432.]

§ 3851. Poll tax receipt, delivery to purchaser or to person paying tax. [Repealed 1917; Stats. 1917, p. 432.]

§ 3852. Poll tax receipt only evidence of payment. [Repealed 1917; Stats. 1917, p. 432.]

§ 3853. Monthly settlement of assessor with auditor for poll taxes. [Repealed 1917; Stats. 1917, p. 432.]

§ 3854. Assessor to return unused poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3855. Auditor to return poll tax receipts not used to the treasurer. [Repealed 1917; Stats. 1917, p. 432.]

§ 3856. Treasurer, duty in relation to poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3857. Assessor to keep roll of persons liable to poll tax and of payments and delinquents. [Repealed 1917; Stats. 1917, p. 432.]

§ 3858. **Duty of auditor when roll returned to him.** [Repealed 1917; Stats. 1917, p. 432.]

§ 3859. **Correction of poll tax roll.** [Repealed 1917; Stats. 1917, p. 432.]

§ 3860. **Unpaid poll tax a lien.** [Repealed 1917; Stats. 1917, p. 432.]

§ 3861. **Proceeds of poll tax paid to county treasurer for state school fund.** [Repealed 1917; Stats. 1917, p. 432.]

§ 3862. **Compensation for collecting poll tax.** [Repealed 1917; Stats. 1917, p. 432.

§ 3881. **Correction of clerical errors in assessment-book.** Defects in description or defects in form or clerical omissions of the assessor, or clerical errors of the asssesor, in any assessment-book, when it can be ascertained from the assessment-book, or from the assessor's maps or block-books, or other papers in the assessor's office, what was intended, or what should have been assessed, may, with the written consent of the district attorney, be supplied or corrected by the assessor at any time after the assessment was made, prior to the sale for delinquent taxes; provided, that where said change will decrease the amount of taxes charged against the taxpayer by reason of said assessment, the consent of the board of supervisors shall also be necessary to said change; and provided, further, that where said change will increase the amount of taxes charged against the taxpayer by reason of said assessment, the person so charged shall be given at least five days' notice of the time when the matter will be heard by the board of supervisors, and he may at such time present any objections he may have to such change to the board of supervisors and their decision in the matter shall be conclusive. The date and nature of every such correction shall be entered on the assessment-book opposite said assessment, and the written authority therefor shall be filed by the assessor with the auditor and preserved by the auditor as a public record, and he shall make the proper charges or credits in his account with the tax collector. In the city and county of San Francisco the written consent of the city attorney shall have the same force and effect as the written consent of the district attorney. [Amendment approved May 26, 1917; Stats. 1917, p. 968.]

§ 3898. **Distribution of moneys received from sale.** 1. The moneys received from such sale shall be distributed as follows: The tax collector shall deduct the penalties, costs and other amounts received as expenses of such sale in such cases as the property so sold shall have been sold for a sum not less than the amount of all taxes levied thereon and all interest, costs, penalties and expenses up to the date of such sale, but where the property so sold shall have been sold for a sum less than said amount, the tax collector shall deduct only the amounts received as expenses attending such sale, and the balance shall be distributed between the state and the county, or city and county, in the proportion that the state rate bears to the county, or city and county, rate of taxation; said tax collector shall pay all amounts into the county treasury, and the treasurer shall account to the state for its portion in the settlement re-

quired by section three thousand eight hundred sixty-five and section three thousand eight hundred sixty-six.

2. **Deed to purchaser. Form. No charge for deed.** On receiving the amount bid, as prescribed in the preceding section, the tax collector must execute a deed to the purchaser, which deed shall be in substance and may be in form as follows:

"This indenture, made the —— day of ——, 19—, between ——, tax collector of the county of ——, state of California, first party, and —— of the county of ——, state of ——, second party, witnesseth:

That whereas the real property hereinafter described was duly sold and conveyed to the state of California for the nonpayment of taxes which had been legally levied and which were a lien upon said property under and in accordance with law; and

Whereas in conformity with law the state of California, acting by and through ——, tax collector as aforesaid, did offer said property, hereinafter described, for sale at public auction to the highest bidder, at which sale said second party became the purchaser of the whole thereof for the sum of $——.

Now, therefore, the said first party in consideration of the premises and in pursuance of the statute in such case made and provided, does hereby grant to the said second party, his heirs and assigns, that certain real property hereinbefore referred to, and situate in the —— county of ——, state of California, more particularly described as follows, to wit:

* * * * * * * * * *

In witness whereof, said first party has hereunto set his hand the day and year first above written.

——,

Tax collector of the county of ——."

No other matters need be recited in the said deed than those provided for in the above form. No charge shall be made by the tax collector for the making of any such deed, and the acknowledgment of all such deeds shall be taken by the county clerk free of charge. Said deed shall be prima facie evidence of all the facts recited therein and shall operate to convey all of the interest of the state in and to said property.

3. **Tax collector's report of sales.** Within ten days after each sale as provided in the preceding section the tax collector shall report to the assessor and recorder, giving the name or names of all persons to whom deeds have been issued under the provisions of this section, together with the dates of such deeds, the amount for which the property was sold, a description of the property conveyed, together with the numbers and dates of the certificates of sale and of the tax deeds by which title to such property so granted was conveyed to the state.

4. **Recorder's notations.** The recorder shall note on the margin of each certificate of sale and of each tax deed involved in the sale and transfer of such property, the name of the purchaser, the date of the deed to the purchaser and the consideration named therein. The assessor shall use such report in his determination of the ownership of such property for assessment purposes.

5. **Refund to purchaser not finally awarded property.** (a) Whenever in any action at law, it has been or shall be determined by a court that

the sale and conveyance provided for in this and the preceding section or in section three thousand seven hundred seventy-one of this code heretofore or hereafter made are void for any reason, and that the purchaser from the state may not be finally awarded the property so purchased, no decree of the court shall be given declaring a forfeiture of the property until the former owner, or other party in interest, shall have repaid to the purchaser the full amount of taxes, penalties and costs paid out and expended by him, to be determined by the court, in pursuit of the state's title to the property so sold. The said purchaser may within one year after such decree becomes final also present a claim against the county, in the manner provided by law, for a refund of the amount paid into the county treasury as the purchase price of such property in excess of the amount for which he may have been reimbursed for taxes, penalties and costs as herein provided, and such excess shall be refunded in accordance with section three thousand eight hundred four of this code.

(b) **Refund for government land erroneously sold.** Whenever it shall be determined to the satisfaction of the board of supervisors of the county in which the land is situated that any land belonging to the United States government or to this state, a municipality or other political subdivision of this state has been erroneously sold and conveyed under the provisions of this or the preceding section, or section three thousand seven hundred seventy-one of this code, and the said land should not have been so sold, the purchaser at said sale may present a claim against the county in the manner provided by law for a refund of the amount so paid into the county treasury by reason of such sale. [Amendment approved May 18, 1917; Stats. 1917, p. 715.]

§ 4052c. **Erection of historic monuments.** The boards of supervisors in the several counties shall have, and they are hereby given, the power to appropriate money from the general fund of the county to erect monuments or to place tablets to commemorate historic spots or places within the limits of the county. [New section added May 31, 1917; Stats. 1917, p. 1366.]

§ 4115. **Money found on dead body.** The treasurer upon receiving from the coroner or justice of the peace acting as coroner money found on a dead body must place it to the credit of the county. All said moneys must be kept in a separate fund. [Amendment approved May 5, 1917; Stats. 1917, p. 259.]

§ 4146. **Duties of coroner as to property of deceased persons.** The coroner must within thirty days after an inquest upon a dead body deliver to the legal representatives of the deceased any money or other property found upon the body. If within the said thirty days no such legal representative makes a demand upon the coroner for the said money or property found upon the body of the decedent, then, upon the expiration of the said thirty days, the coroner must deliver to the treasurer any money found upon the body of the deceased, together with the proceeds of the sale of the property found upon the body of the decedent, which sale shall be held in accordance with the provisions of section four thousand one hundred forty-six *a* of this code, and at the same time an affidavit with the treasurer showing:

1. The amount of money belonging to the estate of the deceased person which has come into his possession since his last statement.

2. The disposition made of such property.

If the coroner or any justice of the peace acting as coroner fails to deliver to the treasurer within forty days after any inquest upon a dead body all money, or proceeds from the sale of property found upon such body, unless claimed in the meantime by the public administrator or other legal representative of the decedent as required by this section, the district attorney must proceed against the coroner or justice of the peace acting as coroner to recover the same by civil action in the name of the county. [Amendment approved May 5, 1917; Stats. 1917, p. 259.]

§ 4146a. Sale of property at public auction. If within thirty days after an inquest upon a dead body no legal representative of such decedent shall have demanded from the coroner or any justice of the peace acting as coroner the property found upon the person of the decedent, the coroner or justice of the peace acting as coroner shall sell such property at public auction upon reasonable public notice, and must immediately thereafter deliver the proceeds of such sale to the treasurer, who shall place the same to the credit of the county, in the same manner as prescribed in section four thousand one hundred fifteen of this code. [New section added May 5, 1917; Stats. 1917, p. 259.]

§ 4147a. Powers of deputy coroners. If the coroner is absent or unable to attend, the duties of his office may be discharged by any of his deputies with like authority, and subject to the same obligations and penalties as the coroner. [New section added May 5, 1917; Stats. 1917, p. 248.]

§ 4149b. Appointment of county fish and game wardens. Deputy fish and game wardens. The board of supervisors of each county may, in the discretion of the board, at the first meeting thereof held in January, 1909, and in January every two years thereafter, appoint a suitable person to serve for the period of two years from the date of his appointment as fish and game warden of the county. Such fish and game warden may be removed by the board of supervisors for intemperance, neglect of duty, or other good and sufficient reason. Said fish and game warden shall, before entering upon the discharge of his duties, execute a bond with sureties in such sum as may be required by the board of supervisors, for the faithful and proper discharge of his duties as such fish and game warden; and provided, further, that in counties of the third class the board of supervisors in their discretion may appoint a deputy fish and game warden. Deputy fish and game wardens shall have the same duties and powers as their principals. The salary of the deputy fish and game warden in counties of the third class shall be seventy-five dollars a month and shall be paid in the same manner and out of the same fund that the salary of the fish and game warden is paid, and the bond of the fish and game warden shall also be conditioned for the faithful discharge of the duties of his deputy, as well as of himself. [Amendment approved April 5, 1917; Stats. 1917, p. 41.]

§ 4232. **Counties of third class, salaries of officers.** In counties of the third class the county and township officers shall receive as full compensation for the services required of them by law or by virtue of their office the following salaries:

1. **County clerk.** The county clerk, five thousand dollars per annum; provided, that the compensation of the county clerk in counties of this class during the present term of office of the present incumbent ending on the first Monday after the first day of January, 1919, shall be four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; one deputy, whose salary is hereby fixed at one thousand eight hundred dollars per annum; twenty-four deputies, whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; two deputies, whose salaries are hereby fixed at the sum of one thousand two hundred dollars per annum each. All the foregoing deputies herein provided for, shall be appointed by the county clerk of said county, and their salaries shall be paid by the county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the county clerk; provided, further, that in such years as the compilation of a great register of voters is required by law to be made, the county clerk in counties of this class shall be, and he is hereby allowed the following additional help: Fifteen clerks for a period of and not exceeding six months, whose salaries are hereby fixed at one hundred dollars per month each; fifteen clerks for a period of not exceeding one month, whose salaries are hereby fixed at one hundred dollars per month each; and also for any such year at least one additional deputy in each voting precinct in the county, who shall be a qualified elector of such precinct, for the purpose of registering electors; such additional deputies shall be paid five cents per name for each elector legally registered by them in the same manner as other county claims are paid; and provided, further, that if no help is allowed to county clerks under the direct primary law, the county clerk in counties of this class, in such years as a general state direct primary election is held, shall be and he is hereby allowed the following additional help: Fifteen clerks for a period of and not exceeding two months immediately next preceding the direct primary election day, whose salaries are hereby fixed at one hundred dollars per month each; and provided, further, that in the event of a special election being held throughout the county, the county clerk is allowed fifteen additional deputies for a period of one month immediately preceding the day of such election, at a compensation of one hundred dollars per month each; such clerks shall be appointed by the county clerk of said county, and during their respective periods of employment their salaries shall be paid by such county in equal monthly installments, at the same time and in the same manner and out of the same fund as is the salary of the county clerk of such county; provided, further, any provision of law to the contrary notwithstanding, that in the event the departments of the superior court in counties of the third class are increased to more than six, that at the time of such increase there is allowed the county clerk to be appointed by such clerk an extra deputy to act as courtroom clerk for each depart-

ment of said superior court so created in excess of the six departments now existing, the salaries of such deputies to be one thousand six hundred twenty dollars per annum each, to be paid by the county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the county clerk of such county.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff, one under-sheriff, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; two deputies, whose salaries are hereby fixed at the sum of one thousand eight hundred dollars per annum each; twenty-four deputies, whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; two engineers for the jail, whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; one matron for the jail, whose salary is hereby fixed at one thousand twenty dollars per annum; one assistant matron, for a period not to exceed two weeks in any one year and to serve only during the vacation of the matron, at a salary of forty-two and one-half dollars for such two weeks; provided, further, that the under-sheriff, all deputies, matron, assistant matron and engineers herein provided for shall be appointed by the sheriff and their salaries shall be paid by the said county in equal monthly installments, at the same time, and in the same manner and out of the same fund as the salary of the sheriff; the sheriff shall also receive the amount of money necessarily expended by him in serving all process and notices and all expenses necessarily incurred by him in the pursuit of criminals and the same shall be a charge against the county and allowed as such by the board of supervisors and paid as other county charges are paid; provided, further, any provision of law to the contrary notwithstanding, that in the event the departments of the superior court in counties of the third class are increased to more than six, that at the time of such increase there is allowed the sheriff to be appointed by him an extra deputy to act as bailiff for each department of said superior court so created in excess of the six departments now existing, the salaries of such deputies to be one thousand six hundred twenty dollars per annum each, to be paid by the county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the sheriff of such county.

3. **Recorder.** The recorder, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the recorder the following deputies and copyists who shall be appointed by the recorder of such county and shall be paid salaries and compensations as follows: One chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; thirteen deputies, whose salaries are hereby fixed at the sum of one thousand five hundred dollars per annum each; one deputy, whose salary is hereby fixed at the sum of one thousand eighty dollars per annum; provided, further, that the salary of the chief deputy and the salaries of the deputies herein provided for shall be paid by said county in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the recorder; provided, further, that in counties of the

class, the recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents and records in his office not to exceed six and three-fourths cents per folio for longhand recording and not to exceed four and one-half cents per folio for typewritten recording for each paper or document so recorded; and provided, further, that said recorder shall file monthly with the county auditor a sworn statement showing in detail the persons, and the amount paid to each for such recording.

4. **Auditor.** The auditor, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the auditor, one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; six deputies, whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; one deputy, whose salary is hereby fixed at the sum of one thousand two hundred dollars per annum and such additional assistance as the auditor may appoint and whose compensation shall not in the aggregate exceed the sum of two thousand five hundred dollars per annum; and provided, that the auditor shall file with the county clerk a sworn statement showing in detail the amounts paid and the persons to whom said compensation is paid for such extra assistance as aforesaid; provided, further, that the chief deputy and deputies shall be appointed by the auditor of said county and their salaries shall be paid by the said county in equal monthly installments, at the same time and in the same manner and out of the same funds as is the salary of the auditor.

5. **Treasurer.** The treasurer, six thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the treasurer, one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; one deputy, whose salary is hereby fixed at the sum of two thousand one hundred dollars per annum; two deputies, whose salaries are hereby fixed at the sum of one thousand eight hundred dollars per annum each, which sums shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the treasurer; provided, that the chief deputy and the three deputies herein provided for shall be appointed by the treasurer of said county; and provided, further, that all commissions and fees required or permitted by any law of this state, or of the United States, to be collected by the treasurer either as an officer or ex-officio officer, his deputies or assistants, for the performance of any official duty, shall be collected for the benefit of the county and shall be paid into the salary fund of the county monthly.

6. **Tax collector.** The tax collector, four thousand dollars per annum; provided, that in counties of this class there shall be, and there hereby is, allowed to the tax collector one chief deputy, whose salary is hereby fixed at two thousand four hundred dollars per annum; two deputies, whose salaries are hereby fixed at the sum of one thousand eight hundred dollars per annum each; eight deputies, whose salaries are hereby fixed at the sum of one thousand five hundred dollars per annum each; one deputy to be designated as the land agent whose salary is hereby fixed at the sum of one thousand six hundred twenty dollars per annum;

provided, further, that there shall be, and there hereby is allowed to the tax collector three extra deputies for a period not to exceed eight months in any one year, at a salary of one hundred dollars per month each; six extra deputies for a period not to exceed five months in any one year, at a salary of one hundred dollars per month each; six extra deputies for a period not to exceed four months in any one year, at a salary of one hundred dollars per month each; provided, further, that in counties of this class the tax collector shall appoint six persons to be known as indexers, which office is hereby created, and whose duties it shall be under the supervision and direction of the tax collector to compile, make out, and complete an index of the assessment-rolls of the county, and of the sanitary assessment-rolls for each sanitary district in counties of this class, yearly, commencing with the year nineteen hundred nine, as soon as the said rolls are completed by the assessor of the county and each assessor of said sanitary districts and for each year thereafter. The said indexes to be a public record for use of the tax collector and the general public and to be kept in the office of the tax collector during the collection of taxes and to be turned over to the auditor at the same time as the assessment-rolls are turned over in the final settlement of the tax collector with the county auditor. Such indexers shall be paid a salary of one hundred dollars per month each, payable at the same time and in the same manner as other county officers are paid, but such indexers shall not be employed to exceed four months in any one year; provided, further, that the chief deputy and all other deputies herein provided for shall be appointed by the tax collector of said county, and the salaries of said chief deputy and all other deputies herein provided for shall be paid by said county during the time which they shall hold office as herein provided at the same time and in the same manner and out of the same fund as the salary of the tax collector.

7. **License collector.** The license collector shall receive fifteen per cent of all licenses collected by him.

8. **Assessor.** The assessor, seven thousand dollars per annum and necessary traveling expenses in the performance of the duties of his office; provided, that in counties of this class there shall be, and there hereby is, allowed to the assessor, the following assistants and deputies who shall be appointed by the assessor and shall be paid salaries as follows: One assistant assessor, whose salary is hereby fixed at the sum of three thousand dollars per annum; one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; four deputies, whose salaries are hereby fixed at the sum of one thousand eight hundred dollars per annum each; four deputies, whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; twenty-five deputies, whose salaries are hereby fixed at the sum of one thousand five hundred dollars per annum each; four deputies, whose salaries are hereby fixed at the sum of one thousand two hundred dollars per annum each; ten deputies for a period not to exceed six months in any one year, whose salaries are hereby fixed at the sum of one hundred twenty-five dollars per month each; two deputies for a period not to exceed six months in any one year, whose salaries are hereby fixed at the sum of one hundred fifty dollars per month each;

and such additional deputies as the assessor may appoint and whose compensation shall not in the aggregate exceed the sum of three thousand six hundred dollars per annum; and provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts paid and the persons to whom such compensation is paid for such extra assistants as aforesaid.

The salaries herein provided for shall be paid by the said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the assessor is paid; provided, however, that should the assessor be directed by any law, or by any order of the board of supervisors, or by any municipality within said counties of the third class to prepare maps, plats or block-books for the use of the county or assessment-rolls for the use of any municipality, then said assessor shall make such maps, plats or block-books, or assessment-rolls for the use of any municipality, but shall only receive the actual cost by him incurred in making or preparing said maps, plats, block-books, or assessment-rolls; and provided, further, that he shall file with the county auditor a sworn statement showing the persons to whom and the amounts paid to each for such maps, block-books or assessment-rolls, and shall account forthwith and pay over to the county any difference between such costs and the amount allowed him for such work; and provided, further, that the salaries herein named shall be in full compensation for all services of every kind and description rendered by the assessor, his deputies and assistants; and it is further provided, that in counties of this class the assessor shall receive no commission for his collection of taxes on personal property nor shall the said assessor receive any compensation for making out the military roll of persons returned by him as subject to military duty as provided by section one thousand nine hundred one of the Political Code.

9. **District attorney. Assistants.** The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the district attorney the following assistant, deputies and employees, who shall be appointed by the district attorney of said county, and who shall be paid salaries as follows: One assistant district attorney, whose salary is hereby fixed at the sum of two hundred seventy-five dollars per month; one chief deputy district attorney, whose salary is hereby fixed at the sum of two hundred fifty dollars per month; two deputies district attorney, whose salaries are hereby fixed at the sum of two hundred twenty-five dollars per month each; two deputies district attorney, whose salaries are hereby fixed at the sum of two hundred dollars per month each; two deputies district attorney, whose salaries are hereby fixed at the sum of one hundred seventy-five dollars per month each; one deputy district attorney, whose salary is hereby fixed at the sum of one hundred fifty dollars per month; two deputies district attorney, whose salaries are hereby fixed at the sum of two hundred dollars per month each, whose duty it shall be, in addition to performing services as deputies district attorney, to attend the sessions of the police courts in cities of the second class and conduct, on behalf of the people, all prosecutions for public offenses of which said police courts shall have jurisdiction; one clerk whose salary is hereby fixed at the sum of one hundred thirty-five dollars per month; one

clerk and private exchange operator at a salary of nine hundred dollars per annum; one process server, whose salary is hereby fixed at the sum of one hundred dollars per month; three stenographers, whose salaries are hereby fixed at the sum of one hundred dollars per month each; one detective who shall assist the district attorney in the detection of crime and prosecution of criminal cases, whose salary is hereby fixed at the sum of one hundred seventy-five dollars per month; and provided, further, that nothing herein contained shall be construed to prevent the boards of supervisors of counties of this class from employing special counsel in civil cases, when in the judgment of said boards the interests of said county require it.

The salaries of said assistants, deputies, clerk, detective, process server, private exchange operator, stenographers and special counsel in this subdivision provided for shall be payable by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid.

10. **Coroner.** The coroner, four thousand dollars per annum and his necessary traveling expenses as follows: Ten cents per mile for distance actually traveled outside the cities of Oakland, Berkeley, Alameda, Piedmont, Emeryville and San Leandro, said traveling expenses not to exceed twenty dollars in any one calendar month; provided, further, that in counties of this class, there shall be, and there hereby is, allowed to the coroner one autopsy physician and surgeon whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum who shall perform all autopsies and inspections in all cases required by the coroner except that where the distance from the county seat exceeds twenty miles the coroner may subpoena a physician or surgeon to perform such autopsy or to inspect the body; one deputy whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum and one stenographer, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum, and who shall be paid, in addition thereto, for transcribing all the testimony and proceedings taken by him at any inquest, the sum of fifteen cents per one hundred words for one copy, and ten cents per one hundred words for two copies made at one time and in every case where the death of any person shall have been caused by the criminal act of another, such stenographer shall make a copy of the transcript of the testimony and proceedings taken at such inquest for the use of the district attorney of such county; in all inquests so reported, the fees for transcribing, as provided herein, shall be paid out of the county treasury upon the order of the coroner.

When such testimony is taken down by such stenographer as herein set forth his transcription thereof, duly certified to by him, shall constitute the deposition of the witnesses testifying at such inquest so reported by such stenographer. The autopsy physician and surgeon, deputy and stenographer herein provided for shall be appointed by the coroner, and their salaries shall be paid by said county in equal monthly installments at the same time, and in the same manner and out of the same fund, as is the salary of the county officers in counties of this class. The coroner must hold inquests as prescribed by chapter two, title twelve, part two of the Penal Code, and he, or any other officer holding the inquest

upon the body of a deceased person, may subpoena a chemist to make an analysis of the contents of the stomach or of the tissues of the body.

11. **Public administrator.** The public administrator such fees as are now or may be hereafter allowed by law.

12. **Superintendent of schools.** The superintendent of schools, four thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the superintendent of schools, one assistant superintendent of schools, one chief deputy superintendent of schools and one deputy superintendent of schools, all of whom shall be appointed by the superintendent of schools of said county, and whose salaries shall be as follows: The salary of the assistant superintendent of schools shall be two hundred dollars per month; the salary of the chief deputy superintendent of schools shall be one hundred fifty dollars per month; and that of the deputy superintendent of schools shall be one hundred twenty-five dollars per month. The salaries shall be paid out of the same fund and in the same manner as the salary of the superintendent of schools is paid.

13. **Surveyor.** The surveyor shall receive a salary of four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the surveyor one deputy, whose salary is hereby fixed at the sum of two thousand seven hundred dollars per annum. The salary of such surveyor shall be paid by such county in equal monthly installments, at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid. All work which the surveyor is directed or charged to perform by law, or by order of the board of supervisors of such county shall be performed by the said surveyor at actual cost; provided, however, that on all such work other than block-book work hereinafter provided for, transit men and office men when actually engaged on such county work shall receive a per diem of not to exceed six dollars, and chainmen when actually engaged on such county work shall receive a per diem of not to exceed three dollars; and provided, further, that for the making, platting, tracing, or otherwise preparing maps, plats or block-books for the use of the county or any municipality within such county there shall be and there hereby is allowed to the surveyor the following draftsmen who shall be paid salaries as follows:

One chief draftsman, whose salary is hereby fixed at the sum of one hundred seventy-five dollars per month; one assistant draftsman, whose salary is hereby fixed at the sum of one hundred thirty-five dollars per month; four assistant draftsmen for a period not to exceed eight months in any one year whose salaries are hereby fixed at the sum of one hundred thirty-five dollars per month each; and provided, further, that the surveyor shall be allowed all necessary expenses for work performed for the county by virtue of his office and all necessary expenses and transportation for work performed in the field. The said surveyor shall render to the auditor of said county a monthly sworn statement showing therein the kind or nature of work performed, the dates, amount paid to assistants and paid for expenses. The salary herein fixed for said surveyor shall be in lieu of all other fees, commissions or compensations of whatsoever kind or nature for services performed by said surveyor for said county.

The deputy, draftsman and assistant draftsmen herein provided for shall be appointed by the surveyor and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of county officers in counties of this class.

14. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries to be paid each month and in the manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them as justices of the peace: In townships having a population of more than seventy-five thousand, four thousand dollars per annum; in townships having a population of forty-five thousand and less than seventy-five thousand, two thousand four hundred dollars per annum; in townships having a population of twenty thousand and less than forty-five thousand, two thousand four hundred dollars per annum; in townships having a population of less than twenty thousand, one thousand three hundred eighty dollars per annum; and provided, further, that each justice of the peace must keep a book, open for the inspection of the public during office hours, in which must be entered at once and in detail the amount of all fees and fines collected by him as such justice of the peace and on the first Monday of each and every month he must pay such fees and fines so collected into the county treasury or city treasury as provided by law; and provided, further, that the board of supervisors of counties of the third class shall furnish each justice of the peace with a suitable office in which to hold court and shall also furnish the necessary furniture, books, blanks and supplies for said court; and provided, further, that in townships having a population of more than seventy-five thousand there shall be one justice's clerk, and one deputy justice's clerk, who shall be appointed by the justice of the peace of said township or justices, if more than one, and who shall perform such duties as are required of them by law or the justice or justices of said township. The salary of said clerk is hereby fixed at the sum of one thousand eight hundred dollars per annum, and that of the deputy clerk at one thousand two hundred dollars per annum, payable in equal monthly installments out of the same fund and in the same manner and at the same time as the salary of the justice of the peace is paid. For the purpose of this section the population of townships in counties of this class is hereby determined to be the poulation of such townships as shown by the federal census taken in the year Anno Domini nineteen hundred ten.

Any increase in the compensation of any justice of the peace in this subdivision provided shall not become effective until the end of the present term of office of the present incumbent; during the present term such justice shall receive the salary fixed by law prior to this amendment of this section.

15. **Constables.** Constables shall receive the following monthly salaries to be paid each month and in the same manner and out of the same fund as other county officers are paid which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than seventy-five thousand, one hundred fifty dollars; in townships having a population of twenty thousand and less than seventy-five thousand, one hundred twenty-five dollars; in townships having a population of less than twenty thousand, one hundred fifteen dollars.

In addition to the compensation received in criminal cases each constable may receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil cases; provided, that in counties of this class constables shall be and they are hereby allowed such expenses as are actually and necessarily incurred by them in conveying prisoners to and from the county jail, such expenses to be itemized and presented as a claim against the county and to be audited and allowed by the board of supervisors and paid out of the county treasury in the same manner as are other claims. For the purpose of this section the population of townships in counties of this class is hereby determined to be the population of such townships as shown by the federal census taken in the year Anno Domini nineteen hundred ten.

16. **Supervisors.** Each supervisor, two hundred twenty-five dollars per month; provided, that in counties of this class supervisors charged as road commissioners with the inspection of five hundred or more miles of roads within their respective districts, shall be and they are hereby allowed their actual traveling expenses not to exceed the sum of seventy-five dollars in any one calendar month; and provided, further, that, in counties of this class supervisors charged as road commissioners with the inspection of two hundred fifty and not exceeding five hundred miles of roads within their respective districts, shall be, and they are hereby allowed their actual traveling expenses not to exceed fifty dollars in any one calendar month; and provided, further, that in lieu of the above-mentioned amounts for traveling expenses, said supervisors charged as road commissioners may be furnished with automobiles by counties of the third class. [Amendment approved May 28, 1917; Stats. 1917, p. 1227.]

§ 4233. **Counties of fourth class, salaries of officers.** In counties of the fourth class county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one deputy county clerk who shall act as clerk of the probate department, who shall receive a salary of one thousand eight hundred dollars per annum; also one deputy county clerk to act as clerk to the board of supervisors, who shall receive a salary of one thousand eight hundred dollars per annum; also one deputy county clerk who shall be the registrar of voters and who shall receive a salary of one thousand six hundred twenty dollars per annum; also one deputy county clerk who shall serve as general office clerk who shall receive a salary of one thousand eight hundred dollars per annum; also three deputy county clerks who shall serve as clerks of the several departments of the superior court who shall receive a salary of one thousand five hundred dollars per annum each; also one deputy county clerk who shall serve as desk clerk, who shall receive a salary of one thousand three hundred eighty dollars per annum; provided, however, that the county clerk shall not be allowed the additional deputy provided by section four thousand

two hundred ninety of the Political Code of the State of California; also one deputy county clerk who shall be "copyist in the probate department," who shall receive a salary of one thousand two hundred dollars per annum; the deputies herein provided for shall be appointed by the clerk of said county and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the county clerk; provided, further, that in such years as the compilation of a great register of voters is required by law to be made the said clerk may appoint two deputies who shall serve for a term of twelve months, who shall each receive a salary of eighty-five dollars per month, to be paid as are other deputies herein provided for; two deputies who shall serve for a term of eight months who shall each receive a salary of eighty-five dollars per month, to be paid as are other deputies herein provided for; and two deputies who shall serve for a term of six months who shall each receive a salary of eighty-five dollars per month, to be paid as are other deputies herein provided for; also one additional deputy in each voting precinct in the county, outside of the corporate limits of municipalities containing twenty-five thousand or more inhabitants, for the purpose of registering electors in such precincts, who shall be paid ten cents per name for each elector legally registered by them; provided, that said county clerk may be allowed the actual and necessary expenses incurred by him in the performance of his official duties, and shall pay into the county treasury all fees received by him in his official capacity from whatever source they may be derived.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided, that there shall be and there hereby is allowed to the sheriff one undersheriff whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum; also two deputies who shall each receive a salary of one thousand five hundred dollars per annum; also seven deputies who shall each receive a salary of one thousand three hundred twenty dollars per annum, one of whom shall speak the Italian language and shall be competent to act as an Italian interpreter; also one deputy who shall act as matron of the county jail who shall receive a salary of one thousand twenty dollars per annum. The undersheriff and deputies herein provided for shall be appointed by the sheriff and paid at the same time and in the same manner and out of the same funds as is the salary of the sheriff; provided, that said sheriff shall be allowed the actual and necessary expenses incurred in the performance of his official duties. He shall pay into the county treasury all fees and mileage collected by him for the service of papers or process issued by any court of this state.

3. **Recorder.** The county recorder, three thousand six hundred dollars per annum, and said recorder may appoint one deputy recorder who shall receive a salary of one thousand eight hundred dollars per annum; three deputy recorders who shall each receive a salary of one thousand two hundred dollars per annum; also six deputy recorders who shall each receive a salary of nine hundred dollars per annum. The deputies herein provided for shall be paid at the same time and in

the same manner and out of the same funds as the county recorder; provided, that such recorder may be allowed the actual and necessary expenses incurred by him in the performance of his official duties and shall pay into the county treasury all fees received by him in his official capacity from whatever source they may be derived.

4. **Auditor.** The county auditor, three thousand six hundred dollars per annum, and said auditor may appoint one deputy auditor who shall receive a salary of one thousand eight hundred dollars per annum; also one deputy auditor who shall receive a salary of one thousand five hundred dollars per annum; also one deputy auditor who shall receive a salary of one thousand three hundred eighty dollars per annum; also two additional deputies for a period of six months in each year who shall each receive a salary of one hundred dollars per month; provided, that for the purpose of performing the work imposed upon him in connection with the annual assessment and collection of property taxes, the auditor may be allowed six additional deputies for a period of one month who shall each receive a salary of one hundred dollars per month and five additional deputies for a period of two months who shall each receive a salary of one hundred dollars per month. The deputies herein provided for shall be paid at the same time and in the same manner as is the county auditor; provided, that such auditor shall pay into the county treasury all fees received by him in his official capacity.

5. **Treasurer.** The county treasurer, three thousand six hundred dollars per annum, and said treasurer may appoint one deputy treasurer, who shall receive a salary of one thousand eight hundred dollars per annum. The premium on the bond of said deputy treasurer shall be paid by the county. All fees and commissions collected by him in his official capacity shall be paid into the county treasury; provided, that the county treasurer shall be entitled to retain for his own use the fees which are now or which may hereafter be allowed by the state law for the collection and payment to the state treasurer of inheritance taxes. Whenever the fees received on account of any one estate paying inheritance taxes shall exceed the sum of two hundred dollars such excess shall be by the county treasurer paid into the county treasury as in the case of fees received by him from other sources. The deputy herein provided for shall be paid at the same time and in the same manner and out of the same funds as is the county treasurer.

6. **Tax collector.** The tax collector, three thousand six hundred dollars per annum, and said tax collector may appoint one deputy tax collector who shall receive a salary of one thousand eight hundred dollars per annum; one additional deputy tax collector who shall receive a salary of one thousand five hundred dollars per annum; also twelve additional deputy tax collectors to serve as such only for a period of two and one-half months in each year, and who shall receive a salary of one hundred dollars each per month; also three additional deputy tax collectors who shall serve as such only during two months of each year and who shall receive a salary of one hundred dollars each per month; also eleven copyists who shall serve only during one and one-half months of each year, and shall each receive a salary of eighty-five dollars per

month. The deputies and copyists herein provided for shall be paid at the same time and in the same manner and out of the same funds as is the salary of the tax collector; provided, that said tax collector shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties, including the making and compiling of the necessary indices to the assessment-roll, and shall pay into the county treasury all fees received by him in his official capacity from whatever source they may be derived.

7. **License collector.** The license collector, fifteen per cent of the whole amount of license collected by him; provided, that the entire compensation of said license collector shall not exceed the sum of one thousand five hundred dollars per annum.

8. **Assessor.** The county assessor, three thousand six hundred dollars per annum; and said assessor may appoint one chief deputy assessor who shall receive a salary of one thousand eight hundred dollars per annum; one supervising deputy assessor who shall receive a salary of one thousand six hnudred dollars per annum; one office deputy assessor who shall receive a salary of one thousand five hundred dollars per annum; one searcher of records and office deputy to serve as such at a salary of one thousand five hundred dollars per annum; also twenty deputy assessors who shall serve as such during the months of March, April, May and June of each year, who shall each receive a salary of one hundred dollars per month, also five additional deputy assessors who shall serve as such only during the months of March, April, May, June and July of each year who shall each receive a salary of one hundred dollars per month; two copyists who shall each receive a salary of one thousand two hundred dollars per annum, and also five copyists to serve as such only during four months of each year who shall receive a salary of one hundred dollars each per month; provided, that the above salaries and compensations shall be in full for all services rendered by him as such assessor and that no commission for the collection of state or infirmary poll taxes or personal property taxes shall be retained by him but that all such commissions shall be paid into the county treasury. The deputies and copyists herein provided for shall be paid at the same time and in the same manner and out of the same fund as is the county assessor; provided, that the assessor shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties.

9. **District attorney.** The district attorney, three thousand six hundred dollars per annum; he may appoint a chief deputy at a salary of two thousand seven hundred dollars per annum; one assistant district attorney at a salary of two thousand one hundred dollars per annum; one assistant district attorney at a salary of one thousand eight hundred dollars per annum; and a deputy district attorney at a salary of one thousand eight hundred dollars per annum; one detective who shall serve at a salary of one thousand five hundred dollars per annum; provided, however, that no further or additional amounts shall be allowed for detective services without the previous consent and authority of the board of supervisors, and a clerk at a salary of one thousand two hundred dollars per annum, all of whom shall be paid in the same manner

as said district attorney; provided, that said district attorney shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties. All fees and commissions collected by him shall be paid into the county treasury.

10. **Coroner and public administrator.** The coroner and public administrator such fees as are now or may hereafter be allowed by law. Said coroner may appoint a deputy coroner to serve in the absence from the county or inability of the coroner to act; provided, that said deputy coroner shall receive only such fees as the coroner would receive if acting.

11. **Superintendent of schools.** The county superintendent of schools, three thousand dollars per annum, and the said superintendent of schools may appoint a deputy superintendent of schools who shall receive a salary of one thousand three hundred twenty dollars per annum and the said superintendent of schools shall also be paid his actual traveling expenses when visiting the schools of the county. The deputy herein provided for shall be paid at the same time and in the same manner and out of the same fund as is the superintendent of schools.

12. **Surveyor.** The county surveyor, the sum of three thousand six hundred dollars per annum; provided, that the increase over the salary heretofore allowed said county surveyor shall not take effect until the first Monday in January, 1919. Said surveyor may appoint a deputy surveyor who shall receive a salary of one thousand six hundred dollars per annum; also one deputy who shall receive a salary of one thousand three hundred twenty dollars per annum; and one deputy who shall be a draftsman whose duties shall include the preparation of maps for the county assessor at a salary of one thousand two hundred dollars per annum; one deputy at a salary of one thousand two hundred dollars per annum and one deputy at a salary of one thousand eighty dollars per annum; and one deputy at nine hundred dollars per annum. Such compensation and salaries as above set forth shall be in full for all services as such county surveyor, and all fees and compensation received or collected by him for surveying other than for the county, shall be paid into the county treasury; provided, that said county surveyor shall be allowed all necessary transportation and expenses incurred by himself or deputies for work performed in the field, and in the official discharge of his duties. Such salaries shall be paid at the same time and in the same manner as the salaries of other county officers are paid. Said surveyor shall also have power to appoint such inspectors as he may deem necessary, for the proper supervision of all roads and bridges under construction, and the compensation of said inspectors shall be a proper charge against the county.

13. **Fish and game warden.** The fish and game warden, one thousand two hundred dollars per annum and the actual and necessary expenses incurred by him in the performance of his official duties, not to exceed fifty dollars for any one month.

14. **Supervisors.** The board of supervisors may at any time grant such additional assistance, or pay for such additional employees or service as

it deems necessary to perform any service required by or in connection with any of the foregoing county offices in counties of this class.

15. **Justices of the peace.** In counties of this class, justices of the peace shall be compensated as follows, and all salaries shall be payable monthly in the same manner as the salaries of county officers are paid, viz:

(1) In townships having a population of twenty thousand or more, justices of the peace shall each receive a salary of two hundred fifty dollars per month as full compensation for all services rendered by them, except as hereinafter provided; provided, however, that in all such townships having a population of twenty thousand or more, there shall be two township justices of the peace in and for any such township, and said justices shall each be allowed a clerk to be appointed by the justices of the peace at a salary of one hundred dollars per month, each, payable monthly in the same manner as salaries of county officers are paid, and shall be furnished with offices and necessary supplies by the board of supervisors.

(2) In townships having a population of five thousand and less than twenty thousand, justices of the peace shall each receive a salary of one hundred thirty-seven dollars and fifty cents per month for all services rendered by them, except as hereinafter provided.

(3) In townships having a population of four thousand four hundred and less than five thousand, justices of the peace shall each receive a salary of one hundred thirty-five dollars per month as full compensation for all services rendered by them, except as hereinafter provided.

(4) In townships having a population of two thousand five hundred and less than four thousand four hundred, justices of the peace shall each receive a salary of seventy-five dollars per month as full compensation for all services rendered by them except as hereinafter provided.

(5) In townships having a population of two thousand two hundred fifty and less than two thousand five hundred, justices of the peace shall each receive the sum of sixty dollars per month as salary for all services rendered in both civil and criminal cases. All fees collected by them shall be paid monthly by them into the county treasury.

(6) In townships having a population of one thousand and less than two thousand five hundred, justices of the peace shall each receive a salary of fifty dollars per month as full compensation for all services rendered by them, except as hereinafter provided.

(7) In townships having a population of less than one thousand, justices of the peace shall each receive a salary of thirty dollars per month as full compensation for all services rendered by them, except as hereinafter provided.

Justices of the peace in all townships in counties of the fourth class shall be permitted to receive and retain for their own use, fees for celebrating marriages and returning certificates thereof, but all other fees shall be collected by them and by them paid into the county treasury at least once a month.

16. **Constables. Population of townships.** In counties of this class constables shall be compensated as follows, and all salaries herein pro-

vided shall be paid in the same manner as the salaries of county officers are paid, viz:

(1) In townships having a population of twenty thousand or more, constables shall each receive a salary of one hundred dollars per month for all services rendered by them in criminal cases. As compensation for all services rendered in civil cases and all other matters wherein they may charge fees for their services, a constable may collect and retain for his own use as his compensation such fees as are now, or may hereafter be allowed by law.

(2) In townships having a population of five thousand and less than twenty thousand, constables shall each receive the sum of seventy-seven dollars and fifty cents per month as a salary for all services rendered by them in criminal cases. As compensation for all services rendered by them in civil cases and in all other matters wherein they may charge fees for their services, a constable may collect and retain for his own use as his compensation such fees as are now or may hereafter be allowed by law.

(3) In townships having a population of four thousand four hundred and less than five thousand, constables shall each receive the sum of seventy-seven dollars and fifty cents per month as a salary for all services rendered by them in criminal cases, civil cases and in the performance of all other duties imposed upon them by law. All fees chargeable and collectible in both criminal cases, civil cases, and in all other cases wherein fees are chargeable by constables, they shall collect in advance and pay monthly into the county treasury.

(4) In townships having a population of two thousand five hundred and less than four thousand four hundred, constables shall each receive the sum of sixty dollars per month as a salary for all services rendered by them in both civil and criminal cases. All fees collected by them in civil and criminal cases shall be paid monthly by them into the county treasury. For all services performed by them, they may charge and retain for their own use such fees as are chargeable at law.

(5) In townships having a population of two thousand two hundred fifty and less than two thousand five hundred, constables shall each receive the sum of sixty dollars per month as salary for all services rendered in both civil and criminal cases. All fees collected by them shall be paid monthly by them into the county treasury.

(6) In townships having a population of one thousand and less than two hundred fifty, constables shall each receive the sum of forty dollars per month as salary for all services rendered in criminal cases. All fees collected by them in criminal cases shall be paid monthly by them into the county treasury. For all other services performed by them they may charge and collect for their own use such fees as are allowed by law.

(7) In townships having a population of less than one thousand, constables shall each receive the sum of thirty dollars per month as a salary for all services rendered by them in criminal cases. All fees collected by them in criminal cases shall be paid monthly into the county treasury. For all other services performed by them they may charge and collect for their own use such fees as are allowed by law.

Constables shall be allowed all necessary expenses incurred in conveying prisoners.

The population herein referred to in classifying townships for the purpose of regulating the compensation of justices of the peace and constables shall be the population found and determined by the federal census taken in the year 1910; provided, however, that a township census may be taken for the purpose of establishing the official census of such township in the manner hereinafter specified and when so taken, such census shall be known as and shall become the official census of such township in which it is taken and the population therein determined shall be and become the official population of such township. Whenever there shall be presented to the board of supervisors of the county a petition signed by the qualified electors of any township or townships in number equal to twenty-five per cent of the votes cast at the preceding general election, praying that said township or townships may be allowed to take the census of said township or townships for the purpose of ascertaining the population therein contained, the board of supervisors may order such census to be taken by one or more suitable persons appointed therefor by the board of supervisors and such census shall be taken by such persons so appointed, of all of the inhabitants of such township or townships. The full name of each person shall be plainly written, the names alphabetically arranged and regularly numbered in one complete series and when completed, shall be verified by the proper official authorized to administer oaths and be filed with the county clerk and thereupon, the same shall be known and shall be the official census of said township or townships.

17. **Supervisors.** Each supervisor, two thousand four hundred dollars per annum and mileage of ten cents per mile for each mile actually traveled in going to and from their residence to the county seat or in the performance of the duties required of them by law or by virtue of their office; provided, that in attending sessions of the board only four mileages shall be allowed for each month and that the total mileage allowed shall not exceed five hundred dollars in any one calendar year; provided, that nothing in this subdivision shall be deemed to affect the compensation or mileage of any incumbent supervisor, but said incumbent shall be paid such compensation and allowed such mileage as is now provided and allowed by law.

18. **Jurors.** The fees of grand jurors and trial jurors in the superior courts of said counties of the fourth class, in civil and criminal cases shall be three dollars, in lawful money of the United States, for each day's attendance, and mileage to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriation for the payment of the fees herein provided for. [Amendment approved May 28, 1917; Stats. 1917, p. 1260.]

§ 4234. **Counties of fifth class, salaries of officers.** In counties of the fifth class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand four hundred dollars per annum; he shall have one deputy at a salary of two thousand dollars per annum, one deputy at a salary of one thousand eight hundred dollars per annum; six deputies at a salary of one thousand five hundred dollars per annum each; three deputies at a salary of one thousand two hundred dollars per annum each, one of whom shall be a competent stenographer. He shall also have two additional deputies for a period of not to exceed ten months during each and every even-numbered year, at a salary of eighty dollars per month each during their said employment and four copyists for a period not to exceed six months during each and every even-numbered year, such copyists to receive a salary of sixty dollars per month during their said employment and also for any such even-numbered years shall appoint such deputies in the county as are necessary for the purpose of registering electors, such deputies to receive five cents per name for each elector legally registered by them. The county clerk shall pay into the county treasury at the close of each month all fees received by him during the month, accompanied by a statement of sources from whence received.

2. **Sheriff.** The sheriff, six thousand dollars per annum and all fees for the service of process issued without his county. He shall have an under-sheriff at a salary of one thousand eight hundred dollars per annum; one field deputy at a salary of one thousand eight hundred dollars per annum, and two field deputies at a salary of one thousand five hundred dollars per annum each; one office deputy who shall have charge of the records made under the Bertillon system and who shall act as photographer and who shall receive a salary of one thousand five hundred dollars per annum; five deputies whose salaries shall be one thousand two hundred dollars per annum each; a stenographer at a salary of one thousand two hundred dollars per annum; and a jailer at a salary of one thousand five hundred dollars per annum. The sheriff shall pay into the county treasury all sums received by him for service of processes issued within the county.

3. **Recorder.** The recorder, two thousand seven hundred dollars per annum up to and until the first Monday in January, 1919, after which time he shall receive a salary of three thousand dollars per annum. He shall have two deputies at a salary of one thousand eight hundred dollars each per annum and two deputies at salaries of one thousand five hundred dollars each per annum; a statistician for compiling the vital statistics of the county at a salary of one thousand five hundred dollars per annum and an abstract clerk at a salary of one thousand five hundred dollars per annum; and one deputy for not to exceed six months in each year at a salary of one hundred dollars per month. The recorder shall have such copyists as are necessary to perform the duties of the office at a compensation of six cents per folio.

4. **Auditor.** The auditor, two thousand seven hundred dollars per annum up to and until the first Monday in January, 1919, after which

time he shall receive a salary of three thousand dollars per annum. He shall have one deputy at a salary of one thousand eight hundred dollars per annum and one deputy at a salary of one thousand five hundred dollars per annum; a redemption clerk at a salary of one thousand five hundred dollars per annum; an additional deputy to act as bookkeeper at a salary of one thousand five hundred dollars per annum and three deputies for not to exceed one hundred twenty days in each year at a salary of four dollars per day each who shall make segregation of road district values and perform such other service as required by law.

5. **Treasurer.** The treasurer, two thousand seven hundred dollars per annum up to and until the first Monday in January, 1919, after which time he shall receive a salary of three thousand dollars per annum. He shall have one deputy at a salary of one thousand eight hundred dollars per annum, one additional deputy who shall act as bookkeeper at a salary of one thousand five hundred dollars per annum, and one deputy at a salary of one thousand two hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand seven hundred dollars per annum up to and until the first Monday in January, 1919, after which time he shall receive three thousand dollars per annum. He shall have one deputy who shall act as cashier at a salary of one thousand eight hundred dollars per annum; one deputy who shall act as assistant cashier and tax sale clerk at a salary of one thousand eight hundred dollars per annum; one deputy at a salary of one thousand five hundred dollars per annum; one deputy at a salary of one thousand two hundred dollars per annum; one deputy who shall act as bookkeeper at a salary of one thousand eight hundred dollars per annum; and one deputy who shall act as stenographer and assistant bookkeeper at a salary of one thousand two hundred dollars per annum, and eight additional deputies for not to exceed three months in each year at salaries of one hundred dollars per month each.

7. **Assessor.** The assessor shall receive four thousand dollars per annum for all services rendered as assessor. He shall have one deputy at a salary of one thousand eight hundred dollars per annum; one draftsman at a salary of one thousand five hundred dollars per annum and one real estate transfer deputy at a salary of one thousand two hundred dollars per annum. He shall also have one stenographer at a salary of nine hundred dollars per annum. He shall also have three field deputies for a period not to exceed three months each year at salaries of six dollars per day each when actually employed; twenty-two field deputies for a period not to exceed three months each year at salaries of five dollars per day each when actually employed; eight deputies for a period not to exceed six months each year at salaries of four dollars per day each, and five copyists for a period not to exceed six months each year at salaries of three dollars per day each when actually employed. All sums collected by the assessor or his deputies as personal property taxes shall be paid into the county treasury monthly as collected, with a statement of account of such collections.

8. **Jurors.** In counties of this class grand and trial jurors shall receive three dollars per day while engaged in the performance of the duties

required of them, and in addition thereto shall receive the mileage now allowed by law.

9. **District attorney.** The district attorney, three thousand six hundred dollars per annum. He shall have one assistant at a salary of two thousand four hundred dollars per annum; two deputies at salaries of one thousand eight hundred dollars per annum each; one deputy at a salary of one thousand five hundred dollars per annum; a detective at a salary of one hundred ten dollars per month; one stenographer at a salary of one hundred dollars per month and one stenographer at a salary of eighty-five dollars per month. Neither of these stenographers shall receive other compensation for reason of services as stenographic reporter in any action or proceeding wherein the fee or per diem of the stenographic reporter constitutes a charge against the county.

10. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

11. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

12. **Superintendent of schools.** Superintendent of schools, two thousand seven hundred dollars per annm up to and including the first Monday in January, 1919, after which time he shall receive a salary of three thousand dollars per annum. He shall have three supervising assistants at salaries of one thousand eight hundred dollars per annum each; one deputy at a salary of one thousand eight hundred dollars per annum; one deputy at a salary of one thousand five hundred dollars per annum and one stenographer at a salary of nine hundred dollars per annum. The superintendent and his supervising assistants shall be allowed their actual traveling expenses incurred while visiting schools in the county.

13. **Surveyor.** The surveyor, two thousand dollars per annum up to and until the first Monday in January, 1919, after which time he shall receive a salary of three thousand dollars per annum in full compensation for all services as county surveyor, as road viewer or inspector, and shall receive his actual and necessary expenses when at work in the field. He shall have one field deputy at a salary of one thousand eight hundred dollars per annum; one deputy at a salary of one thousand five hundred dollars per annum. After the first Monday in January, 1919, the surveyor and his deputies shall devote their entire time and service to the work of the county, and are prohibited from engaging in private surveying and engineering work, and shall do all surveying and engineering work for the county, including the preparation of plans and specifications for the construction of bridges.

14. **Population of townships. Classification of townships.** The registered population of the several judicial townships of this county is hereby determined to be the registered votes as shown by the great register of the county in the office of the county clerk January first, one thousand nine hundred fifteen, as follows, to wit:

Judicial township No. 1	814
Judicial township No. 2	2,205
Judicial township No. 3	17,730
Judicial township No. 4	2,058

Judicial township No. 5	2,171
Judicial township No. 6	2,841
Judicial township No. 7	1,931
Judicial township No. 8	1,807
Judicial township No. 9	858
Judicial township No. 10	863
Judicial township No. 11	1,219
Judicial township No. 12	277
Judicial township No. 13	683
Judicial township No. 14	679
Judicial township No. 15	1,021

And for the purpose of regulating the compensation of the constables and justices of the peace, townships of this class of counties are hereby classified as follows: Townships having a registered voting population of ten thousand and more shall belong to and be known as townships of the first class; townships having a like population of one thousand four hundred fifty and less than ten thousand shall belong to and be known as townships of the second class; townships having a like population of six hundred and less than one thousand four hundred fifty shall belong to and be known as townships of the third class; townships having a like population of less than six hundred shall belong to and be known as townships of the fourth class.

15. **Justices of the peace.** Justices of the peace, and persons now performing the duties of justices of the peace, shall receive the following monthly salaries, to be paid each month as the county officers are paid, and the same shall be in full compensation for all services rendered and shall include their office rent, except as otherwise provided by law, to wit: In townships of the first class, two hundred dollars; in townships of the second class, eighty-five dollars; in townships of the third class, seventy dollars; in townships of the fourth class, fifty dollars.

Justices of the peace shall pay to the county treasurer once a month all fees and fines collected by them, and shall be responsible for the collection and payment to the county treasurer of all such fees and fines as herein provided.

16. **Constables.** Constables shall receive the following monthly salaries, to be paid each month as the county officers are paid, and to be in full compensation for all services rendered by them in criminal cases, to wit: In townships of the first class, one hundred dollars; in townships of the second class, seventy-five dollars; in townships of the third class, sixty dollars; in townships of the fourth class, fifty dollars.

In addition to the monthly salaries above provided, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil cases, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or prison, which expenses shall be audited by the board of supervisors and paid out of the county treasury.

17. **Supervisors.** The supervisors shall receive each the sum of one thousand eight hundred dollars per annum, payable monthly in installments of one hundred fifty dollars per month, in full compensation for all services rendered either as supervisors or road overseers.

18. **Monthly payment.** The salaries of all county and township officers and their deputies shall be payable in installments monthly on the first day of each month.

19. **Salaries for all services.** Beginning with the first Monday in January, 1919, officers of the counties of the fifth class shall receive for all services required of them by law only such salaries as are herein provided, and beginning with, and after the first Monday in January, 1919, all county officers of the fifth class shall pay over to the county treasurer, at the close of each and every month, all fees and commissions heretofore retained by them together with a statement of sources from whence received. [Amendment approved May 28, 1917; Stats. 1917, p. 1144.]

§ 4236. Counties of seventh class, salaries of officers. In counties of the seventh class the county and township officers shall receive as full compensation for the services required of them by law, or by virtue of their office the following salaries:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one chief deputy who shall receive a salary of one thousand eight hundred dollars per annum; one registration clerk who shall receive a salary of one thousand six hundred eighty dollars per annum; four court clerks who shall receive salaries of one thousand five hundred dollars each per annum; one deputy who shall receive a salary of one thousand three hundred fifty dollars per annum; one index clerk who shall receive a salary of one thousand two hundred dollars per annum; one stenographer who shall receive a salary of one thousand twenty dollars per annum; two copyists who shall receive salaries of one thousand twenty dollars each per annum; and a deputy or deputies, not to exceed five, for the purpose of registering electors, to be paid not to exceed three dollars per diem each; provided, that said deputies so employed for registering electors shall not be employed except during a year when a general election is to be held throughout the state, and then only between the first day of May and the fifteenth day of November of said year, and not more than one deputy for each precinct for the purpose of registering electors in precincts outside of the corporate limits of municipalities containing twenty-five thousand or more inhabitants during said year of the general election, who shall be paid ten cents per name for each person legally registered by them, the salaries and compensations of each of said deputies and clerks to be paid out of the county treasury in equal monthly installments in the same manner and at the same time as the other county officials are paid.

2. **Sheriff.** The sheriff, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff one under-sheriff, whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum, and the following deputies and employees: One deputy who shall be head jailer, and who shall receive the salary of one thousand five hundred dollars per annum; one deputy who shall receive a salary of one thousand two hundred dollars per annum; one deputy who shall receive a salary of nine hundred dollars per annum; two service deputies who shall receive a salary of one thousand five hundred dollars each per annum; five deputies

who shall receive salaries of one thousand two hundred dollars each, per annum; one stenographer who shall receive a salary of nine hundred dollars per annum; one bookkeeper who shall receive a salary of one thousand two hundred dollars per annum; six deputies who shall be turnkeys at the jail, whose salaries shall be one thousand twenty dollars each, per annum, but no more turnkeys are to be employed than are absolutely necessary to handle the requirements of the jail; and three deputies who shall be known as county deputies, who shall receive salaries of one thousand two hundred dollars each per annum. In counties of this class there shall be a matron of the county jail, to be appointed by the sheriff, and who, under the direction of the sheriff, shall have charge of all female prisoners in the county jail, and who shall receive a salary of nine hundred dollars per annum, to be paid by the county in monthly installments at the same time, in the same manner, and out of the same fund as is the salary of the sheriff. In counties of this class the sheriff shall be allowed by the board of supervisors his actual necessary expenses for pursuing criminals, or for transacting of criminal business, and his actual necessary expenses for service of all process and notices, and each and all such expenses shall be a charge against the county and allowed by the board of supervisors, and paid as other county charges are paid. In counties of this class the sheriff shall not be allowed to retain for his own use any fees or mileage for the service of any process issued out of any court of this county but such fees and mileage when collected shall be paid into the county treasury.

3. **Recorder.** The recorder, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed the recorder the following deputies and copyists who shall be appointed by the recorder of said county, and shall be paid as follows: One chief deputy who shall receive one thousand eight hundred dollars per annum; one index deputy who shall receive a salary of one thousand three hundred fifty dollars per annum; one assistant index clerk who shall receive a salary of one thousand two hundred dollars per annum; one chief filing clerk who shall act as deputy registrar who shall receive a salary of one thousand five hundred dollars per annum; one assistant filing clerk who shall receive a salary of one thousand twenty dollars per annum; one compilation clerk who shall receive a salary of one thousand twenty dollars per annum; and as many copyists as may be required, who shall receive as compensation the sum of five cents per folio for recording all instruments or notices except maps and plats, and for copies of any records, five cents per folio.

4. **Auditor.** The auditor, three thousand six hundred dollars per annum; provided, that there is hereby allowed to the auditor the following deputies: One chief deputy who shall receive a salary of one thousand nine hundred fifty dollars per annum; one deputy who shall receive a salary of one thousand six hundred eighty dollars per annum; one deputy who shall receive a salary of one thousand three hundred fifty dollars per annum; one deputy who shall receive a salary of nine hundred dollars per annum; five additional deputies at a salary of four dollars per day each, for each day employed for a period not to exceed one hundred fifty-six days in any one year.

5. **Treasurer.** The treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the treasurer, the following deputies, who shall be appointed by the treasurer and shall receive salaries as follows: One deputy who shall receive a salary of two thousand one hundred dollars per annum. The salary of the treasurer hereinabove provided shall be in full compensation for all services rendered, and the fees heretofore chargeable and collected by him for returning to the state the collateral inheritance tax and for the performance of his official duties in connection therewith shall be paid into the county treasury and be the property of said county; and said treasurer shall receive no fees, compensation or commissions of any kind or character for any service rendered by him in connection with said collateral inheritance tax.

6. **Tax collector.** The tax collector, three thousand six hundred dollars per annum and such fees as are allowed by law; one chief deputy who shall receive a salary of two thousand one hundred dollars per annum; two deputies who shall receive salaries of one thousand three hundred fifty dollars each, per annum; two deputies who shall receive salaries of one thousand two hundred dollars each, per annum; a stenographer who shall receive a salary of one thousand twenty dollars per annum; nine additional clerks at a salary of four dollars per day each, for each day employed, for a period not to exceed one hundred fifty-six days in any one year.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum, and traveling expenses incurred in the discharge of his official duties, not exceeding three hundred sixty dollars per annum; provided, that in counties of this class there shall be, and there hereby is allowed to the assessor, one chief deputy who shall receive a salary of one thousand eight hundred dollars per annum; one deputy who shall receive a salary of one thousand six hundred fifty dollars per annum; one deputy who shall receive a salary of one thousand three hundred fifty dollars per annum; two deputies for a period not exceeding six months in any one year at salaries of one hundred dollars per month each; one deputy for a period not exceeding five months in any one year at a salary of one hundred dollars per month; four deputies for a period not exceeding four months in any one year, at salaries of one hundred dollars each per month; one stenographer who shall receive a salary of one thousand twenty dollars per annum; six deputies for a period not exceeding one hundred four days each fourth year, whose per diem shall be four dollars each when actually employed. It is further provided, that in counties of this class the assessor shall receive no commission for his collection of taxes on personal property, nor shall such assessor receive any compensation or commission for the collection of poll taxes, or road poll taxes, nor shall the assessor receive any compensation for making out the military roll of persons returned to him as subject to military duty as provided by section one thousand nine hundred one of the Political Code; provided, however, that fifteen per cent of all moneys collected by him for poll taxes and road poll taxes shall be allowed to such counties on their settlement with the state, and be and remain the property of such counties. It is further provided, that in counties of this class, in addition

to the deputies already allowed, there shall be and is hereby allowed to the assessor, eighteen deputies who shall receive salaries of four dollars per day each, five deputies who shall receive salaries of five dollars per day each, and three deputies who shall receive salaries of three dollars per day each for a period not exceeding seventy-eight days in any one year.

8. **District attorney.** The district attorney, four thousand dollars per annum; also one assistant district attorney, who shall receive a salary of three thousand dollars per annum; two deputy district attorneys who shall receive **salaries** of two thousand four hundred dollars each per annum; one deputy district attorney who shall receive a salary of two thousand dollars per annum; one deputy district attorney who shall receive a salary of one thousand eight hundred dollars per annum, and two stenographers who shall receive salaries of one thousand two hundred dollars each, per annum. It is further provided, that in counties of this class the district attorney be and is hereby allowed a detective who shall receive a salary of one thousand six hundred fifty dollars per annum.

9. **Superintendent of schools.** The superintendent of public schools, two thousand seven hundred fifty dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed the superintendent of public schools one assistant superintendent who shall receive a salary of one thousand five hundred dollars per annum and one bookkeeper who shall receive a salary of one thousand two hundred dollars per annum. In counties of this class the secretary of the county board of education shall not be paid or allowed to receive any compensation whatever for his services as secretary of such board, or for any services rendered in connection therewith; and provided, further, that in counties of this class, the county school superintendent shall receive his actual and necessary traveling expenses for visiting and examining schools and school properties of the county and in performing such other duties as are incident to the full discharge of the requirements of the office of superintendent of schools, the claims for such expenses to be subject to the approval of the board of supervisors.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Coroner.** The coroner, one thousand five hundred dollars, and in addition thereto the board of supervisors shall allow the coroner his actual traveling expenses in the performance of his official duties within the county, when called away from the county seat. It is further provided, that in counties of this class there shall be and there is hereby allowed the coroner, one assistant coroner, who shall receive a salary of one thousand two hundred dollars per annum, who shall also act as autopsy surgeon. The sheriff shall act as summoning officer for the coroner and shall serve all processes requested by him.

12. **Surveyor.** The surveyor, three thousand six hundred dollars per annum, also one office deputy who shall receive a salary of one thousand eight hundred dollars per annum; one principal field deputy who shall receive a salary of one thousand eight hundred dollars per annum; one assistant field deputy in the assessor's office who shall receive a salary of

one thousand two hundred dollars per annum; one assistant office deputy who shall receive a salary of one thousand eighty dollars per annum; one draftsman who shall receive a salary of nine hundred dollars per annum; two deputies, chiefs of parties, who shall receive salaries of one thousand two hundred dollars each per annum; two instrument men who shall receive salaries of nine hundred sixty dollars each per annum, and such other assistants as may be necessary for field work, who shall receive a compensation of three dollars per diem and expenses when working in the field.

13. **Classification of townships.** For the purpose of regulating the compensation of the justices of the peace and constables, townships in counties of this class are hereby classified as follows: Townships having a population of thirty thousand or more shall belong to and be known as townships of the first class; townships having a population of twelve thousand and less than thirty thousand shall belong to and be known as townships of the second class; townships having a population of five thousand and less than twelve thousand shall belong to and be known as townships of the third class; townships having a population of one thousand and less than five thousand shall belong to and be known as townships of the fourth class; townships having a population of less than one thousand shall belong to and be known as townships of the fifth class.

The population referred to in classifying townships as above provided for shall be the population found and determined by multiplying the registered vote at the last general election by three, and such population so determined shall be and become the official population of such township for the purpose of this act.

14. **Justices of the peace.** In counties of this class justices of the peace shall receive the following compensation, and all such salaries shall be paid monthly in the same manner as the salaries of county officers are paid, viz:

In townships of the first class, three thousand dollars per annum each.

In townships of the second class, one thousand two hundred dollars per annum.

In townships of the third class, six hundred dollars per annum.

In townships of the fourth class, three hundred sixty dollars per annum.

In townships of the fifth class, one hundred twenty dollars per annum.

Such salaries shall be as full compensation for all services rendered by them in both civil and criminal cases. All fees chargeable and collectible by justices of the peace in civil and criminal cases for service rendered by them shall be paid monthly into the county treasury.

In townships of the first class the board of supervisors of counties of this class shall furnish the justices of the peace suitable courtrooms.

In townships of the first class, in counties of this class, there shall be two justices of the peace and the said offices are hereby created. In all other townships in counties of this class there shall be one justice of the peace.

15. **Constables.** In counties of this class constables shall receive the following compensation, and all such salaries shall be paid monthly in the same manner as the salaries of county officers are paid, viz:

In townships of the first class in all criminal cases in lieu of fees now allowed by law one thousand two hundred dollars per annum.

In townships of the second class in all criminal cases in lieu of fees now allowed by law six hundred dollars per annum.

In townships of the third class in all criminal cases in lieu of fees now allowed by law six hundred dollars per annum.

In townships of the fourth class in all criminal cases in lieu of fees now allowed by law three hundred sixty dollars per annum.

In townships of the fifth class in all criminal cases in lieu of fees now allowed by law two hundred forty dollars per annum.

In all townships in counties of this class the constables shall be allowed in addition to the compensation above set forth all fees in civil cases as are now or may hereafter be allowed by law, and actual traveling expenses only in lieu of mileage for taking prisoners to the county jail.

In townships of the first class, in counties of this class the board of supervisors shall furnish the constables' offices and with necessary and proper furniture for each of said constables.

16. **Supervisors.** Each member of the board of supervisors, one thousand five hundred dollars per annum and fifteen cents per mile in going from his residence to the county seat at each meeting of the board. Also five hundred dollars per annum each and not more than fifteen cents per mile actually traveled in performing services as road commissioner for actual expenses incurred in such service; provided, that said supervisors shall not in any one year receive more than one thousand dollars each in mileage as road commissioner.

17. **Jurors.** In counties of this class, trial jurors in all criminal cases tried in the superior court and grand jurors shall receive two dollars fifty cents per day for each day's attendance while engaged in the performance of the duties required of them and in addition thereto shall receive for each mile actually traveled in going only, while acting as such juror, twenty-five cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

18. **Deputies, clerks, etc.** The deputies, clerks, copyists and employees mentioned in this section are hereby allowed to the respective county officers named, who shall appoint the same, and said deputies, clerks, copyists and employees shall be paid by the counties of this class in monthly installments, at the same time, in the same manner and out of the same fund as the salaries of the county officers are paid. [Amendment approved May 28, 1917; Stats. 1917, p. 1269.]

§ 4237. **Counties of eighth class, salaries of officers.** In counties of the eighth class, the county and township officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries and shall have as deputies or assistants the respective employees hereinafter named, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum, and there shall be and there is hereby allowed to the county clerk in addition, one chief deputy, to be appointed by the county clerk, who shall be paid a salary of one thousand five hundred dollars per annum, two additional deputies, who shall be paid the sum of one thousand

two hundred dollars per annum each, and one additional deputy who shall be paid the sum of nine hundred dollars per annum; said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid. All fees which are now or may hereafter be allowed by law for all services performed by the county clerk shall by him be paid into the county treasury, and no part thereof shall be retained by him as compensation.

2. **Sheriff.** The sheriff, two thousand four hundred dollars per annum, and there shall be, and there is hereby created the office of jailer; such jailer shall be appointed by the sheriff and shall be paid a salary of one thousand two hundred dollars per annum, and also one chief deputy, to be designated under-sheriff, to be appointed by the sheriff, who shall be paid a salary of one thousand five hundred dollars per annum, and also three deputies to be appointed by the sheriff who shall be paid a salary of one thousand two hundred dollars per annum each; also one deputy, who shall be paid a salary of eight hundred dollars per annum; there is also hereby created the office of jail matron; such matron shall be appointed by the sheriff and shall be paid a salary of four hundred eighty dollars per annum; said salaries to be paid by such county in monthly installments, at the time and in the manner and out of the same fund as the salary of county officers are paid; provided, further, that there shall be allowed the said sheriff and his deputies their actual traveling expenses incurred in attending to the duties of the office, both civil and criminal, including their necessary expenses incurred in pursuing criminals or transacting any criminal business. All fees, commissions and mileage which are now or may hereafter be allowed by law to the sheriff shall by him be paid into the county treasury and no part thereof shall be retained by him as compensation.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum, in addition thereto there is hereby allowed to the county recorder, one deputy to be appointed by the county recorder who shall be paid a salary of one thousand two hundred dollars per annum, and said recorder is hereby allowed one deputy, to be appointed by said county recorder, who shall receive a salary of nine hundred dollars per annum; said salaries to be paid by such county in monthly installments, at the time and in the manner, and out of the same fund as the salary of county officers are paid; provided, further, that in counties of this class the recorder shall be entitled to the actual costs necessarily incurred by him for the recording of all papers, documents and records in his office, not to exceed five cents per folio, and not to exceed three and one-half cents per folio for typewriting done in the recording of each paper or document so recorded; provided, further, that said recorder shall file monthly with the county auditor a statement under oath showing in detail the names of the persons employed by him as copyists, the number of folios copied and the amount paid to each of such persons for services rendered as copyists. All fees which are or may hereafter be allowed by law to the county decorder shall by him be paid into the county treasury and no part thereof shall be retained as compensation.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum, and in addition thereto there is hereby allowed to the county auditor one chief deputy to be appointed by the auditor who shall be paid a salary of one thousand two hundred dollars per annum, and there shall be, and there is allowed to the auditor in addition, four deputies to be appointed by the auditor who shall be paid a salary of one thousand two hundred dollars per annum each, said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the county officers are paid. All fees which are or may hereafter be allowed by law to the county auditor shall by him be paid into the county treasury, and no part thereof shall be retained as compensation.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum, in addition thereto there is hereby allowed to the treasurer one deputy, to be appointed by the county treasurer, who shall receive a salary of one thousand two hundred dollars per annum. Said salaries shall be paid by such county in monthly installments and at the time and in the manner and out of the same fund as the salary of the county officers are paid. All fees which are or may hereafter be allowed by law to the treasurer shall be paid by him into the county treasury and no part thereof shall be retained as compensation.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum, and there shall be and there is allowed to the tax collector one deputy, to be appointed by the tax collector, who shall be paid a salary of one thousand two hundred dollars per annum; and there is hereby allowed to the tax collector such additional assistants as the tax collector may require; such additional assistants shall be paid a salary of four dollars per day, each; provided, however, that the compensation of such additional assistants shall not exceed in the aggregate the sum of two thousand dollars per annum. Said salaries shall be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salary of county officers are paid. All fees which are or may hereafter be allowed by law to the tax collector shall by him be paid into the county treasury and no part thereof shall be retained as compensation.

7. **Assessor.** The assessor, two thousand four hundred dollars per annum, and there shall be and there is hereby allowed to the assessor in addition one chief deputy to be appointed by the assessor and who shall be paid a salary of one thousand five hundred dollars per annum, and one deputy, who shall be paid a salary of eight hundred forty dollars per annum, and there is hereby allowed to the assessor, in addition thereto, two office clerks at a salary of seven hundred eighty dollars per annum, each, and there shall be and there is hereby allowed to the assessor seventeen other deputies for such time as may be necessary between the first Monday in March and the first Monday in July of each year; each of said seventeen deputies shall be paid the sum of four dollars per day for the time actually employed by them in making assessments; said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county

officers are paid; provided, further, that there shall be and there is hereby allowed said assessor and his deputies their actual traveling expenses necessarily incurred in attending to the duties of the office. All fees and percentages which are or may hereafter be allowed by law to the assessor shall be paid by him into the county treasury and no part thereof shall be retained as compensation.

8. **District attorney.** The district attorney, two thousand seven hundred dollars per annum, and there shall be, and there is allowed to the district attorney in addition, one chief deputy, to be appointed by the district attorney, who shall be paid a salary of one thousand eight hundred dollars per annum; and there is hereby allowed to the district attorney, in addition thereto, one chief trial deputy to be appointed by the district attorney, who shall be paid a salary of one thousand eight hundred dollars per annum, and one additional deputy, to be appointed by the district attorney, who shall be paid a salary of one thousand two hundred dollars per annum, each of whom shall be an attorney at law regularly admitted to practice before the supreme court of California, and there is hereby allowed to the district attorney one office stenographer to be appointed by the district attorney, who shall receive a salary of seven hundred eighty dollars per annum, and there is hereby allowed to the district attorney one special officer, who may be a deputy sheriff; such special officer shall be appointed by the district attorney, and shall be paid a salary of one thousand two hundred dollars per annum; said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salary of the county officers are paid. All fees which are or may hereafter be allowed by law to the district attorney shall be by him paid into the county treasury and no part thereof shall be retained as compensation.

9. **Coroner.** The coroner, two thousand four hundred dollars per annum, which salary shall be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salary of county officers are paid. All fees which are or may hereafter be allowed by law to the coroner shall by him be paid into the county treasury and no part thereof shall be retained by him as compensation.

10. **Public administrator.** The public administrator, one dollar per annum, which salary shall be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salary of county officers are paid. All fees which are or may hereafter be allowed by law to the public administrator shall by him be paid into the county treasury and no part thereof shall be retained by him as compensation.

11. **Superintendent of schools.** The superintendent of schools, for full services including attendance on the county board of education, two thousand four hundred dollars per annum, and all actual traveling expenses necessarily incurred in the performance of his duties, and there is allowed to the superintendent of schools in addition, one deputy, to be appointed by the superintendent of schools, who shall be paid a salary of one thousand two hundred dollars per annum. Said salaries shall be paid by such county in monthly installments at the time and in the manner and out of

the same fund as the salaries of county officers are paid. The office of superintendent of schools shall be kept open upon all business days from nine o'clock A. M. until five P. M.

12. **Board of education.** Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance on said board, and actual traveling expenses incurred in traveling to and from his home and a meeting place of said board. Said compensation of the members of said board shall be paid out of the same fund as the salaries of county officers are paid. Claims for such services and mileage shall be presented to the board of supervisors and allowed by them in the same manner as other claims against the county are allowed. The compensation of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred seventy of this code.

13. **Surveyor.** The surveyor, two thousand four hundred dollars per annum, and in addition thereto all necessary expenses incurred in the field in performance of the county work, to be paid by the board of supervisors, and there shall be and there is allowed to the surveyor in addition, one chief deputy, who shall be a competent civil engineer to be appointed by the surveyor, who shall be paid a salary of one thousand five hundred dollars per annum, and also two deputies, who shall be competent draftsmen, to be appointed by the surveyor, who shall be paid a salary of one thousand three hundred fifty dollars per annum, each, and also one assistant draftsman, which office of assistant draftsman is hereby created, who shall be paid a salary of nine hundred sixty dollars per annum, and also one clerk who shall be appointed by the surveyor, which office of clerk is hereby created, who shall be paid a salary of nine hundred dollars per annum. Said salaries to be paid in monthly installments at the same time and in the same manner and out of the same funds as the salary of county officers are paid. All fees and compensation received for outside surveying shall be paid into the county treasury and no part thereof shall be retained as compensation.

14. **Justices of the peace.** Justices of the peace, the following monthly salaries to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered by them in both criminal and civil cases: In townships having a population of eighteen thousand and over, one hundred forty dollars per month; in townships having a population of twelve thousand and less than eighteen thousand, one hundred ten dollars per month; in townships having a population of six thousand and less than twelve thousand, ninety dollars per month; in townships having a population of two thousand four hundred and less than six thousand, seventy dollars per month; in townships having a population of one thousand five hundred and less than two thousand four hundred, sixty dollars per month; in townships having a population of eight hundred and less than one thousand five hundred, fifty-five dollars per month; in townships having a population of five hundred and less than eight hundred, thirty dollars per month; in townships having a population of less than five hundred, ten dollars per month. And the justices of the peace of each township shall charge and collect the fees

which are now or may hereafter be allowed by general law, in civil cases, and pay the same monthly to the county treasurer.

15. **Constables.** Constables, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of ten thousand and more, one hundred dollars per month; in townships having a population of five thousand and less than ten thousand, eighty-five dollars per month; in townships having a population of two thousand five hundred and less than five thousand, seventy-five dollars per month; in townships having a population of one thousand five hundred and less than two thousand five hundred, sixty dollars per month; in townships having a population of eight hundred and less than one thousand five hundred, fifty dollars per month; in townships having a population of five hundred and less than eight hundred, twenty dollars per month; in townships having a population of less than five hundred, ten dollars per month. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil cases.

16. **Supervisors.** The supervisors, the sum of one hundred twenty-five dollars per month, each, as supervisors and road commissioners and actual traveling expenses not to exceed five hundred dollars for each supervisor in any one year.

17. **Jurors.** The grand jurors and jurors in the superior court in criminal cases shall be paid two dollars and fifty cents per day for each day's attendance, and for each mile actually traveled in going only, while acting as such jurors, fifteen cents, and the judge of said court shall make an order directing the auditor to draw his warrant on the treasury in favor of such jurors for said per diem and mileage and the treasurer shall pay the same.

18. **Population of townships.** The population of townships shall, for the purposes of this section, be determined to be the population of such townships as shown by the federal census taken in the year Anno Domini one thousand nine hundred ten, or by a subsequent census taken as in section four thousand fifty-five of the Political Code, provided; and in case townships are formed after the taking of the census, then the population shall be determined by multiplying the vote for governor cast in such township, at the last preceding election, by four. [Amendment approved May 28, 1917; Stats. 1917, p. 1113.]

§ 4238. **Counties of ninth class, salaries of officers.** In counties of the ninth class, the county and township officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum. The sheriff shall also be allowed his actual, reasonable and necessary expenses in all civil and criminal cases.

3. **Recorder.** The recorder, two thousand seven hundred fifty dollars per annum.

4. **Auditor.** The auditor, three thousand six hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand six hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand nine hundred dollars per annum. The tax collector shall pay all his own traveling expenses.

7. **Assessor.** The assessor, four thousand dollars per annum. The assessor shall also receive his actual, reasonable and necessary expenses while engaged in his official duties in the field.

8. **District attorney.** The district attorney, three thousand six hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, three thousand three hundred dollars per annum. The superintendent of schools shall pay all his own traveling expenses when visiting the schools of this county.

12. **Surveyor.** The surveyor, two thousand four hundred dollars per annum, and actual, reasonable and necessary expenses when engaged in the field or in the office in the discharge of his official duties in the county.

13. **Justices of the peace.** Justices of the peace shall receive the following salaries for all services rendered by them, payable in the same manner as county officers are paid, viz: In townships having a population of twenty thousand or more, two hundred fifty dollars per month; in townships having a population of not less than five thousand nor more than twenty thousand, one hundred dollars per month; in townships having a population of not less than three thousand nor more than five thousand, sixty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, twenty-five dollars per month; provided, that for the purposes of this section the population of the several townships shall be ascertained by multiplying the number of registered voters at the last general election by three and one-half. The compensation herein fixed for justices of the peace shall be in full for all services rendered, and all fees collected by them shall be paid into the county treasury as provided by law; provided, that justices of the peace now holding office shall, during their present term, be entitled to retain for their own use all civil fees. In townships having a population of twenty thousand or more, the justice of the peace shall be allowed a clerk, which position is hereby created. Such clerk shall be appointed by the justice of the peace of

said township, and shall hold office during the pleasure of said justice of the peace. Said clerk shall give a bond in the sum of five thousand dollars, with at least two sureties to be approved by a judge of the superior court of the county in which said township is situated, conditioned for the faithful discharge of the duties of the office; and he shall receive an annual salary of one thousand five hundred dollars. The justice's clerk shall keep a record of the proceedings of the said court, and shall issue all process ordered by the court, and shall collect and receive all fines and forfeitures in criminal cases and pay the same to the authorities legally entitled to receive the same, at the time and in the manner provided by law. He shall prepare bonds, justify bail when the amount has been fixed by the court, and shall have authority to administer and certify oaths and take and certify affidavits in any action, suit or proceeding in said justice's court. The clerk shall be in attendance on the court in the courtroom of said justice's court for the dispatch of official business, daily, legal holidays excepted, from the hour of nine o'clock A. M. until five o'clock P. M., and during such reasonable times thereafter as may be necessary for the proper performance of his duty.

14. **Constables.** Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz: In townships having a population of fourteen thousand or more, one hundred dollars per month; in townships having a population of not less than five thousand and not more than fourteen thousand, seventy-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand thirty-five dollars per month. In all townships having a population of less than one thousand four hundred twenty-five dollars per month. Constables in counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law for mileage in criminal cases and shall also receive such fees as are now or may hereafter be allowed by law in civil cases. Such mileage in criminal cases is intended to cover the ordinary expenses of constables, and other than such mileage, they shall be allowed the following expenses and no other, to wit: In criminal, insane, inebriate and drug habitue cases, the actual, reasonable and necessary cost of transporting prisoners to and from the county jail; of supporting such prisoners while in their custody; of pursuing criminals when a felony has been committed within their township and no warrant has been issued, whether an arrest is made or not; of transporting inebriates, drug habitues and insane persons from the justice's court to the place of detention and from the place of detention to the superior court, and from the superior court to the insane asylum, but no mileage shall be allowed for such transportation to the place of detention, to the superior court, or to the insane asylum.

15. **Supervisors.** Each member of the board of supervisors, twelve hundred dollars per annum, and their necessary expenses when attending to the business of the county, other than the meetings of the board; and

fifteen cents a mile in traveling to and from his residence to the county seat; provided, that no more than one mileage at any one term of the board shall be allowed. Each member of said board may be allowed his actual expenses in attending the annual state convention of members of county boards of supervisors; provided, that the total expense of all members attending such convention shall not exceed fifty dollars in any one year.

16. **Bonds.** The bonds of the clerk, sheriff, recorder, auditor, treasurer, tax collector, assessor, district attorney, coroner, public administrator, superintendent of schools and surveyor, shall be executed with a reliable bond and security company and the cost of said bond, when duly approved, shall be a charge against the county, and payable out of the general fund.

17. **Deputies, etc.** The county clerk shall have one chief deputy, at a salary of two thousand one hundred dollars per annum; three court-room deputies at a salary of one thousand five hundred dollars per annum each; three office deputies at a salary of one thousand two hundred dollars per annum each; one judgment clerk at a salary of one thousand five hundred dollars per annum; one deputy who shall act as clerk to the board of supervisors at a salary of one thousand five hundred dollars per annum; and a deputy or deputies not to exceed ten, for the purpose of registering electors or other emergencies, who shall be paid not to exceed three and a half dollars per diem each; also a deputy or deputies, to register electors outside of the county seat, who shall receive a compensation of eight cents for each elector registered, and shall receive no other compensation or expenses. The county recorder, one first assistant at a salary of one thousand eight hundred dollars per annum; one second assistant at a salary of one thousand five hundred dollars per annum; two comparing or indexing clerks at a salary of one thousand two hundred dollars per annum each; two copyists at a salary of one thousand two hundred dollars per annum each; the recorder may, with the consent of the board of supervisors, hire necessary assistance in cases of emergency at a salary not to exceed three dollars and fifty cents per diem each, nor shall the aggregate salaries for such work exceed two thousand four hundred dollars in any one calendar year. The treasurer, one chief deputy at a salary of two thousand four hundred dollars per annum, and one deputy at a salary of one thousand eight hundred dollars per annum; and one deputy at a salary of one thousand five hundred dollars per annum, and an emergency deputy or deputies, which position is hereby created at a salary of four dollars per diem; which said emergency deputy or deputies shall not receive more than one thousand eight hundred dollars in any one calendar year. The county auditor, one chief deputy at a salary of one thousand eight hundred dollars per annum, one deputy at a salary of one thousand five hundred dollars per annum; the auditor may, with the consent of the board of supervisors, hire necessary assistants for the purpose of extending taxes, and in cases of emergency at a salary not to exceed three and a half dollars per diem each, nor shall the aggregate salaries for such emergency work exceed six hundred dollars in any one calendar year. The district attorney, an assistant district attorney, at a salary of two thousand seven hundred dollars per annum;

and two deputies, at a salary of one thousand eight hundred dollars per annum each; and one stenographer at a salary of two thousand one hundred dollars per annum; the superintendent of schools, one deputy at a salary of one thousand two hundred dollars per annum. The sheriff, an under-sheriff, who shall receive a salary of two thousand one hundred dollars per annum; a clerk who shall receive a salary of one thousand five hundred dollars per annum; a stenographer and clerk who shall receive a salary of one thousand two hundred dollars per annum; three deputy sheriffs, who shall receive a salary of one thousand two hundred dollars per annum each; three bailiffs or courtroom deputies, who shall receive a salary of one thousand two hundred dollars per annum each; and one motor boat deputy, which office is hereby created, who shall receive a salary of one hundred dollars per month; two speed cop deputies, which office is hereby created, who shall furnish and maintain at their own expense the motorcycle for their use, and whose salary and expense for the purpose herein named shall be one hundred thirty-five dollars per month; two jailers who shall receive a salary of one thousand two hundred dollars per annum each; one deputy sheriff for emergencies and as a guard for the working prisoners, who shall receive a salary of one thousand two hundred dollars per annum; and a deputy sheriff for the purpose of serving papers and other emergencies who shall be paid not to exceed three and a half dollars per diem. The county surveyor, one chief deputy, which position is hereby created, who shall be paid a salary of one thousand eight hundred dollars per annum. The coroner, one deputy, which position is hereby created, who shall be paid by the coroner out of his fees. The county assessor shall have one chief deputy at a salary of two thousand one hundred dollars per annum; one draftsman at a salary of one thousand eight hundred dollars per annum; one stenographer and copyist at a salary of nine hundred dollars per annum; one office deputy to serve not to exceed two hundred four days in each year at a salary of four dollars per diem; one platter to serve not to exceed one hundred four days in each year at a salary of four dollars per diem; two office deputies for preparing assessment-rolls to serve not to exceed one hundred days each in any one year at a salary of four dollars per diem each; one office deputy for preparing assessment-rolls to serve not to exceed one hundred four days in any one year at a salary of four dollars per diem; one copyist to serve not to exceed forty-three days in any one year at a salary of four dollars per diem; fifteen field deputies to serve not to exceed eighty days each in any one year at a salary of four dollars per diem each; one office deputy for preparing assessment-rolls to serve not to exceed one hundred four days in any one year at a salary of four dollars per diem; one copyist to serve not to exceed forty-three days in any one year at a salary of four dollars per diem; fifteen field deputies to serve not to exceed eighty days each in any one year at a salary of four dollars per diem each; and an emergency deputy or deputies, which position is hereby created at a salary of four dollars per diem, which said emergency deputy or deputies shall not receive more than four hundred dollars in any one calendar year; all the deputies, assistants, emergency help and clerks herein mentioned shall be paid at the time and in the same manner that the principals are paid, and they shall be paid from the salary fund.

18. **Salaries full compensation. Fees, etc., paid into county treasury.** The salaries, fees, mileage and commissions herein provided shall be in full for all official services performed. No county, district or township officer shall receive from the county any salary, compensation, fees, commission or mileage, except as in this section provided. All compensation, commissions, fees and mileage now or hereafter provided by law to be paid to any county, district or township officer for any official service, except as in this section otherwise provided, shall be paid into the county treasury to the credit of the general fund, unless some other fund is specially designated by law. All compensations, fees, commissions and mileage, except as in this section otherwise provided, received by any county, district or township officer, either as such officer, or as the agent of the state of California, or of any officer thereof, or as the agent of any political subdivision of the state of California, or of any officer thereof, shall be paid into the county treasury to the credit of the general fund, unless some other fund is specially designated by law. Until such county, district or township officer shall pay into the county treasury all compensation, commissions, fees and mileage as herein required to be paid, he shall receive no salary, and it shall be the duty of the auditor to refuse to deliver to him thereafter a salary warrant and it shall be the duty of the treasurer to refuse to pay the same.

19. **Jurors.** For attending as a grand juror or as a juror in the superior court, for each day's attendance per day three dollars and fifty cents. For each mile actually traveled in attending court as a juror, in going only, per mile, twenty-five cents. [Amendment approved May 29, 1917; Stats. 1917, p. 1294.]

§ 4239. **Counties of tenth class, salaries of officers.** In counties of the tenth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand five hundred dollars per annum and such fees as are allowed by law; provided, that he shall appoint one deputy at a salary of one thousand five hundred dollars per annum, two courtroom deputies at a salary of one thousand two hundred dollars per annum each, two office deputies at one thousand two hundred dollars per annum each, and one copyist at a salary of nine hundred dollars per annum, whose duty it shall be to act as copyist for the county clerk as such, as well as for the clerk as ex-officio clerk of the board of supervisors, and do copying work when required by the board of supervisors; and deputy clerks not to exceed three in number for the purpose of registering electors in the office of the county clerk, to be paid at not to exceed seventy-five dollars per month each; provided, that such deputies so employed for registering electors shall not be employed except during a year when a general election is held throughout the state and one of which deputies shall be employed only between the first day of January and the fifteenth day of November of such year, and the other two of which deputies may be employed from the first day of April to and including the fifteenth day of November of said year; provided, however, that in a year when the presidential primary is held, all of said

deputies shall be employed from the first day of January to the fifteenth day of November, in said year, and also, for any such year, one or more deputies for the purpose of registering electors outside of the county seat, who shall receive a compensation of ten cents for each elector legally registered by them, and shall receive no other compensation or expenses. Each of said deputies to be paid at the same time and in the same manner as county officers are paid.

2. **Sheriff.** The sheriff, two thousand dollars per annum; provided, he shall appoint one under-sheriff at a salary of one thousand five hundred dollars per annum and four deputy sheriffs at a salary of one thousand two hundred dollars per annum each; one deputy sheriff at a salary of nine hundred dollars per annum; and one deputy sheriff to be paid for only between June first and October first each year (four months), at a salary of seventy-five dollars per month; and a person to act as matron of the county jail at a salary of seventy-five dollars per month. Said under-sheriff and each of said deputies and assistants shall be paid at the same time and in the same manner as county officers are paid. The sheriff shall also receive such fees as are allowed sheriffs by section four thousand three hundred *b* of the Political Code of the state of California, except that for traveling in the service of any paper required by law to be served, in either civil or criminal process or proceeding for each mile actually and necessarily traveled, one way only, twenty cents. No constructive mileage to be allowed.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum; provided, that the recorder shall appoint one chief deputy at a salary of one thousand five hundred dollars per annum, one copyist, who may also perform the duties of a deputy at a salary of one thousand dollars, three copyists at a salary of nine hundred dollars each per annum, to be paid at the same time and in the same manner as county officers are paid.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum; provided, that the expenses incurred, if any, in making extensions of assessments and tax rolls shall be paid out of said sum of two thousand four hundred dollars, compensation above mentioned; and provided, further, that said auditor shall appoint one deputy at a salary of one thousand dollars per annum, to be paid at the same time and in the same manner as county officers are paid.

5. **Treasurer.** The treasurer, two thousand dollars per annum, and such fees as are now or may hereafter be allowed by law; provided, that the treasurer shall appoint one deputy at a salary of nine hundred dollars per annum, to be paid at the same time and in the same manner as county officers are paid.

6. **Tax collector.** The tax collector, three thousand dollars per annum; provided, that said tax collector shall appoint one revenue and taxation deputy at a salary of one thousand three hundred fifty dollars per annum; and provided, further, that he shall appoint one stenographer to be paid only between July first and January first of each year, at a salary of seventy-five dollars per month, and both last named shall be paid at the same time and in the same manner as county officers are paid.

7. **Assessor.** The assessor, three thousand dollars per annum; provided, that the assessor shall appoint one revenue and taxation deputy at a salary of one thousand five hundred dollars per annum, one chief deputy at a salary of one thousand five hundred dollars per annum and one title transfer deputy at a salary of one thousand two hundred dollars per annum, one draftsman at a salary of one thousand two hundred dollars per annum, one property ownership deputy at a salary of one thousand two hundred dollars per annum, and one office deputy at a salary of one thousand twenty dollars per annum. The salaries of which deputies shall be paid in the same manner and at the same time and from the same funds as county officers are paid. The assessor may also appoint as many deputies as may be necessary to carry on his work at an expense to the county not to exceed four thousand dollars during any one fiscal year. The salaries of which last named deputies shall be paid at the same time and in the same manner and from the same fund as the assessor is paid. The amount of each of which payments shall be determined by the auditor from a certificate furnished by the assessor showing the person and amount to which payments are due and the period of time for which compensation is made, or, the salaries of said deputies may be paid by claim presented to the board of supervisors in regular form and approved by the assessor, the total amount of which claims, however, shall not exceed the sum of four thousand dollars above mentioned, for any one fiscal year. The assessor shall also receive six per cent of the personal property tax collected by him and the amount allowed by law for making out the military roll.

8. **District attorney.** The district attorney, three thousand dollars per annum; provided, that he shall appoint one assistant district attorney at a salary of one thousand eight hundred dollars per annum, and one deputy district attorney at a salary of one thousand two hundred dollars per annum, and one stenographer at a salary of nine hundred dollars per annum; said assistant, deputy and stenographer to be paid at the same time and in the same manner as county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, said superintendent of schools may appoint an assistant superintendent at a salary of one thousand five hundred dollars per annum, payable at the same time and in the same manner as county officers are paid.

12. **Surveyor.** The surveyor, one thousand eight hundred dollars per annum for all work performed for the county, and in addition thereto all necessary and actual traveling expenses incurred in connection with field work, and all fees allowed by law; provided, that out of the compensation hereinabove provided he shall pay the cost of platting, tracing or otherwise preparing maps, plats or block-books for the use of the county assessor; provided, further, that all property ownership

books, data, and transcript records required for making such maps, plats, or block-books shall be procured at the expense of the county in such manner and by such persons as the board of supervisors may direct; and provided, further, that the fees for land surveys, except when done for the county, shall be ten dollars per day, or fraction thereof, and in addition thereto all necessary and actual traveling expenses. And it shall be the duty of the county surveyor to prepare and furnish all necessary plans and specifications for all bridges and bridge work, in addition to his other duties, without extra compensation. He shall appoint a deputy at a salary of nine hundred dollars per annum, payable at the same time and in the same manner as county officers are paid; provided, however, that in cases of emergency additional help may be furnished the county surveyor by the board of supervisors at a compensation to be fixed by the board.

13. **Justices of the peace.** The justices of the peace, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases.

In townships having a population of thirteen thousand or more, one hundred fifty dollars per month;

In townships having a population of over eight thousand and less than thirteen thousand, ninety dollars per month;

In townships having a population of four thousand and less than eight thousand, sixty dollars per month;

In townships having a population of two thousand five hundred and less than four thousand, forty dollars per month;

In townships having a population of one thousand five hundred and less than four thousand, thirty-five dollars per month;

In townships having a population of one thousand and less than one thousand five hundred, thirty dollars per month;

In townships having a population of nine hundred and less than one thousand five hundred, twenty dollars per month;

In townships having a population of less than nine hundred, fifteen dollars per month. In addition to the monthly salaries herein allowed, each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions. Each justice of the peace must pay into the county treasury once a month all fines collected by him; and provided, further, that for the purposes of this subdivision the population of the several townships shall be ascertained from the United States census reports of 1910.

14. **Constables.** In townships having a population of thirteen thousand or more, constables shall receive as compensation, in lieu of all fees in criminal cases, the sum of one hundred dollars per month; in townships having a population of eight thousand and less than thirteen thousand, the sum of sixty dollars a month; in townships having a population of four thousand and less than eight thousand, the sum of forty dollars a month; in townships having a population of one thousand five hundred and less than four thousand, fifteen dollars per month; in townships having a population of one thousand and less than one thousand five hundred, ten dollars per month; in townships having

a population of less than one thousand, five dollars per month; provided, that in addition to the fees and salaries herein allowed, each constable shall receive for traveling expenses outside of his own township, but within his own county, for the service of a civil or criminal process, the sum of fifteen cents per mile for each mile actually and necessarily traveled, one way only, no constructive mileage to be allowed; and provided, further, that such salaries for services in criminal cases shall be paid at the same time and in the same manner as the salaries of county officers are paid; and provided, further, that in addition to the salaries provided for herein, constables in all townships shall receive for their own use the fees which are now or may hereafter be allowed by law in civil cases; and provided, further, that for the purpose of this subdivision, the population of the several townships shall be ascertained from the United States census reports of 1910.

15. **Supervisors.** Each member of the board of supervisors for all services required of them by law, or by virtue of their office, except as road commissioners, shall be allowed one thousand dollars per annum as a salary, and fifteen cents per mile in traveling to and from his place of residence to the courthouse; provided, that only one mileage must be allowed at each term; and provided, further, that said salary and mileage shall be in lieu of all fees otherwise provided by law for supervisors. Each supervisor shall receive for services as road commissioner, thirty cents per mile one way for all distances actually traveled by him in the performance of his duties; provided, that he shall not in any one year receive more than six hundred dollars as such road commissioner; provided, that no member of the board of supervisors or other county officer, shall, except for his own services or expenses, present or verify by his oath attached thereto, any claim, account, or demand for allowance against the county.

16. **Monthly payments.** All salaries herein not otherwise provided for shall be paid out of the treasury of said county in equal monthly payments on the last day of each month.

17. **Jurors.** The fees for jurors in counties of this class shall be as follows: For attending as a grand juror or juror in the superior court, for each day's attendance, while serving as such juror, per day, three dollars; for each day's attendance when not selected to serve two dollars. For attending justice's court, for each juror sworn to try the cause, per day, in civil cases, only, one dollar and fifty cents. A juror excused at his own request shall not be entitled to a per diem fee. For each mile actually and necessarily traveled in attending court as a juror, except in criminal cases in justice's court, for which no allowance shall be made, in going only, per mile, fifteen cents. [Amendment approved May 28, 1917; Stats. 1917, p. 1155.]

§ 4240. **Counties of eleventh class, salaries of officers.** In counties of the eleventh class the officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum, and twelve and one-half cents for each elector regis-

tered; provided, that in counties of this class there shall be, and there is hereby allowed to the county clerk, which said positions are hereby created, the following deputies, who shall be appointed by the county clerk of such county, and shall be paid salaries as follows: Two deputies at a salary of one thousand eight hundred dollars each per annum, four deputies at a salary of one thousand five hundred dollars each per annum, two deputies at a salary of one thousand two hundred dollars each per annum, and a deputy or deputies not to exceed three for a period of employment not to exceed one calendar month preceding each county election to be paid four dollars per diem. The deputies herein provided for shall be paid by such county at the same time and in the same manner and out of the same fund that the salary of the county clerk is paid. In counties of this class the county clerk shall pay into the county treasury all fees received by him in his official capacity.

2. **Sheriff.** The sheriff, four thousand eight hundred dollars per annum. The sheriff shall also receive for his own use the fees for mileage which are now, or which may hereafter be allowed by law, and the fees and commission for the service of all papers whatsoever issued by any court of this state, outside of this county. The sheriff shall also receive the necessary expenses in all criminal cases; provided, that no constructive mileage shall be allowed. In counties of this class there shall be, and there is hereby allowed to the sheriff, which said positions are hereby created, the following deputies who shall be appointed by the sheriff of such county, and shall be paid salaries as follows: One deputy at a salary of one thousand eight hundred dollars per annum, nine deputies at a salary of one thousand five hundred dollars each per annum, and one deputy, who shall be a woman, at a salary of one thousand two hundred dollars per annum. The deputies herein provided for shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the sheriff is paid. In counties of this class the sheriff shall make no charge for the boarding of prisoners over and above the actual cost of materials.

3. **Recorder.** The recorder, four thousand dollars per annum; provided that in counties of this class there shall be, and there is hereby allowed to the recorder, which said positions are hereby created, the following deputies and copyists, who shall be appointed by the recorder of such county, and shall be paid salaries as follows: One deputy recorder at a salary of one thousand five hundred dollars per annum, one deputy at a salary of one thousand dollars per annum, three copyists at a salary of nine hundred dollars per annum; provided, that said copyists being eligible, may be also appointed deputy recorders without further compensation. The recorder may also employ such additional copyists, not to exceed two, as may be required to copy instruments filed for record within a reasonable time after the same are filed for record, and which the other copyists herein provided, are unable to copy within such time. The compensation of such additional copyists shall be paid out of the general fund of said county at the rate of seventy-five dollars a month, and proper claims therefor shall be presented to and allowed by the board of supervisors. The deputies and copyists herein provided for, other than additional copyists, shall be paid by

said county at the same time and in the same manner and out of the same fund that the salary of the recorder is paid; provided, that in counties of this class the recorder may be allowed the actual necessary expenses incurred by him in the performance of his official duties and shall pay into the county treasury all fees received by him in his official capacity from whatsoever source they may be derived.

4. **Auditor.** The auditor, four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the auditor,. which said positions are hereby created, the following deputies and assistants who shall be appointed by the auditor of such county, and shall be paid salaries as follows: Three deputy auditors at a salary of one thousand eight hundred dollars each per annum, one stenographer at a salary of one thousand two hundred dollars per annum; provided, further, that the auditor may appoint ten additional assistants, for a period of employment not to exceed two months in each year, to be paid four dollars each per diem. The deputies and assistants herein provided for shall be paid by said county at the same time and in the same manner and out of the same fund as the salary of the auditor is paid. In counties of this class the auditor shall pay into the county treasury all fees received by him in his official capacity.

5. **Treasurer.** The treasurer, four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the treasurer, which said position is hereby created, one deputy, who shall be appointed by the treasurer of such county, and shall be paid a salary of two thousand one hundred dollars per annum. The deputy herein provided for shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the treasurer is paid. In counties of this class the treasurer shall pay in to the county treasury all fees received by him in his official capacity.

6. **Tax and license collector.** The tax and license collector, four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the tax and license collector, which said positions are hereby created, the following deputies and assistants, who shall be appointed by the tax and license collector of said county, and shall be paid salaries as follows: One deputy at a salary of one thousand five hundred dollars per annum, one deputy at a salary of one thousand two hundred dollars per annum, two assistants for a period of employment not exceeding eight months each per year to be paid three dollars per diem each, and two assistants for a period of employment not exceeding five months each per year to be paid three dollars per diem each, and four additional copyists for a period of employment not exceeding four months each per year to be paid three dollars per diem each. The deputies and assistants herein provided for shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the tax and license collector is paid.

7. **Assessor.** The assessor, five thousand dollars per annum. In counties of this class there shall be, and there is hereby allowed to the assessor, the following deputies and employees, who shall be appointed

by the assessor and who shall be paid salaries as follows: One deputy assessor who shall receive a salary of one thousand eight hundred dollars per annum; one deputy assessor who shall receive a salary of one thousand five hundred dollars per annum; four deputies who shall be employed not to exceed one hundred four days each year whose per diem shall be seven dollars each when actually employed; four deputies who shall be employed not to exceed one hundred four days in each year whose per diem shall be six dollars each when actually employed; four deputies who shall be employed not to exceed one hundred four days in each year whose per diem shall be five dollars each when actually employed; six deputies who shall be employed not to exceed one hundred four days in each year whose per diem shall be four dollars each when actually employed; such additional deputies, whose aggregate compensation shall not exceed two thousand dollars in any fiscal year, as may be necessary to carry on the work of his office; two copyists who shall be employed not to exceed one hundred thirty days in each year, whose per diem shall be two and one-half dollars each when actually employed; and one stenographer who shall be employed not to exceed four months in each year whose salary shall be eighty dollars per month; provided, that the above salaries and compensations shall be in full payment for all services rendered by him as such assessor and that no commission for the collection of state taxes or infirmary poll taxes or road taxes or personal property taxes shall be retained by him, nor shall the assessor receive any compensation for making out the military roll of persons returned to him as subject to military duty as provided by section one thousand nine hundred one of the Political Code of the state of California, but that all fees and commissions shall be paid into the county treasury. The deputies herein provided for shall be paid at the same time and in the same manner and out of the same fund as the salary of the county assessor is paid; provided, that the assessor shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties.

8. **District attorney.** The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the district attorney, which said positions are hereby created, the following: One assistant district attorney at a salary of two thousand four hundred dollars per annum, two deputy district attorneys at a salary of two thousand one hundred dollars each per annum, and one stenographer at a salary of one thousand two hundred dollars per annum. The assistant deputies and stenographer herein provided for shall be appointed by, and hold office at the pleasure of, the district attorney, and shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the district attorney is paid; provided, further, that no employee of the district attorney's office shall accept any other compensation by reason of services rendered in any action or proceeding wherein fees or per diem would constitute a charge against the county.

9. **Coroner and public administrator.** The coroner and public administrator, three thousand dollars per annum, and his actual necessary

expenses in traveling outside of the county seat. He shall hold inquests as prescribed by chapter two, title twelve, part two of the Penal Code, except that he may in his discretion dispense with a jury. The coroner or other officer holding an inquest upon the body of a deceased person may subpoena a physician or surgeon to inspect the body, or a chemist to make analysis of the contents of the stomach or tissues of the body, or hold a post-mortem examination of the deceased, and give his professional opinion as to the cause of death. The coroner, in counties of this class, shall be and is hereby allowed one deputy at a salary of one hundred dollars per month, and his necessary traveling expenses in traveling outside of the county seat; said deputy shall have the power, and it shall be his duty, when directed by the coroner, to hold inquests, and all power conferred by law upon the coronor may be exercised by said deputy; one clerk, which office is hereby created, at a salary of one hundred fifty dollars per month and his actual necessary expenses in traveling outside of the county seat, whose duty it shall be, when called upon by the coroner, to attend all inquests and take down in shorthand the testimony of all witnesses at such inquests; when such testimony is taken down by such clerk, his transcription thereof, duly certified to by him, shall constitute the depositions of the witnesses testifying at such inquests so reported by such clerk; the salary of the said deputy and said clerk herein provided for shall be paid by the county, in the same manner, at the same time, and out of the same funds as the salary of the coroner and public administrator is paid. Said deputy and said clerk shall be appointed by the coroner, and shall hold office at the pleasure of the coroner. All fees and commissions collected by the coroner and public administrator in his official capacity and by his said deputy and clerk in their official capacity shall be paid into the county treasury.

10. **Superintendent of schools.** The superintendent of schools, three thousand dollars per annum; provided, that in counties of this class there shall be, and is hereby allowed to the superintendent of schools, which said positions are hereby created, the following deputies, who shall be appointed by the superintendent of schools of such county, and shall be paid salaries as follows: One deputy at a salary of one thousand eight hundred dollars per annum, and two deputies at a salary of one thousand two hundred dollars per annum each. The deputies herein provided shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the superintendent of schools is paid. In counties of this class the superintendent of schools shall receive his actual and necessary traveling expenses for visiting and examining schools and school properties of the county and in performing such other duties as are incident to the full discharge of the requirements of the office of superintendent of schools.

11. **Surveyor.** The surveyor, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the surveyor, which said position is hereby created, one deputy who shall be appointed by the surveyor of such county, and shall receive a salary of one thousand five hundred dollars

per annum. The deputy herein provided shall be paid by said county at the same time and in the same manner and out of the same fund as the salary of the surveyor is paid.

12. **Supervisors.** Supervisors, two thousand four hundred dollars per annum each, and actual and necessary traveling expenses in the performance of the duties of their office.

13. **Township officers. Monthly salaries. Population of townships.** In counties of this class the township officers shall receive the following compensation, to wit: In townships having a population of twenty-five thousand or more, justices of the peace shall receive a monthly salary of two hundred dollars, and may appoint one clerk at a salary of fifty dollars per month; and constables a monthly salary of one hundred twenty-five dollars.

In townships having a population of ten thousand, or more, and less than twenty-five thousand, justices of the peace shall receive a monthly salary of one hundred sixty-five dollars and constables a monthly salary of one hundred dollars.

In townships having a population of four thousand nine hundred thirty, or more, and less than ten thousand, justices of the peace shall receive a monthly salary of one hundred forty dollars, and constables a monthly salary of one hundred twenty-five dollars.

In townships having a population of four thousand one hundred forty, or more, and less than four thousand nine hundred thirty, justices of the peace shall receive a monthly salary of seventy-five dollars, and constables a monthly salary of one hundred dollars.

In townships having a population of three thousand nine hundred thirty-five, or more, and less than four thousand one hundred forty, justices of the peace shall receive a monthly salary of one hundred dollars, and constables a monthly salary of ninety dollars.

In townships having a population of three thousand five hundred eighty, or more, and less than three thousand nine hundred thirty-five, justices of the peace shall receive a monthly salary of seventy-five dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of three thousand four hundred ninety-five, or more, and less than three thousand five hundred eighty, justices of the peace shall receive a monthly salary of twenty dollars, and constables a monthly salary of twenty-five dollars.

In townships having a population of two thousand six hundred thirty or more, and less than three thousand four hundred ninety-five, justices of the peace shall receive a monthly salary of sixty-five dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of two thousand four hundred ninety, or more, and less than two thousand six hundred thirty, justices of the peace shall receive a monthly salary of seventy-five dollars, and constables a monthly salary of sixty-five dollars.

In townships having a population of two thousand four hundred fifty-five, or more, and less than two thousand four hundred ninety, justices of the peace shall receive a monthly salary of ninety dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of one thousand seven hundred seventy, or more, and less than two thousand four hundred fifty-five, justices of the peace shall receive a monthly salary of sixty-five dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of one thousand four hundred thirty-five, or more, and less than one thousand seven hundred seventy, justices of the peace shall receive a monthly salary of fifty dollars, and constables a monthly salary of sixty dollars.

In townships having a population of one thousand two hundred fifteen, or more, and less than one thousand four hundred thirty-five, justices of the peace shall receive a monthly salary of ninety dollars, and constables a monthly salary of ninety dollars.

In townships having a population of eight hundred fifty-five, or more, and less than one thousand two hundred fifteen, justices of the peace shall receive a monthly salary of twenty dollars, and constables a monthly salary of twenty dollars.

In townships having a population of eight hundred, or more, and less than eight hundred fifty-five, justices of the peace shall receive a monthly salary of thirty dollars, and constables a monthly salary of thirty dollars.

In townships having a population of five hundred eighty, or more, and less than eight hundred, justices of the peace shall receive a monthly salary of one hundred dollars, and constables a monthly salary of one hundred dollars.

In townships having a population of three hundred thirty, or more, and less than five hundred eighty, justices of the peace shall receive a monthly salary of twenty dollars, and constables a monthly salary of twenty dollars.

Salaries of justices of the peace shall be in full compensation for all services rendered by them in both civil and criminal cases. Salaries of constables shall be in full compensation for all services rendered by them in criminal cases, and in addition to the monthly salaries herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil cases, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury.

The salaries of justices of the peace and of constables shall be paid monthly by the county in the same manner that the salaries of county officers are paid; provided, that for the purposes of this section, the population of the several judicial townships of this county shall be ascertained by multiplying the number of votes cast for president at the election held in the year 1916, A. D., by five, which said population in said judicial townships has been computed and is determined to be as follows to wit:

Judicial township No. 1	1435
Judicial township No. 2	1215
Judicial township No. 3	13025
Judicial township No. 4	3580

Judicial township No. 5	2490
Judicial township No. 6	27350
Judicial township No. 7	475
Judicial township No. 8	330
Judicial township No. 9	855
Judicial township No. 10	580
Judicial township No. 11	2455
Judicial township No. 12	3495
Judicial township No. 13	2630
Judicial township No. 14	800
Judicial township No. 15	3935
Judicial township No. 16	4930
Judicial township No. 17	4140
Judicial township No. 18	1770

14. **Fees of jurors and witnesses.** In the superior court, jurors fees and witness fees shall be as follows:

For attending as a grand juror, for each day's actual attendance per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, and but once during the term for which such juror is drawn, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

For attending as a trial juror for each day's actual attendance, per day three dollars, and fifteen cents per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

For attending as a witness in criminal cases and before the grand jury, for each day's actual attendance the sum of two dollars, and fifteen cents per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such witness for said per diem and mileage, and the treasurer shall pay the same; provided, however, that in criminal cases such per diem and mileage shall only be allowed on a showing to the court by the witness, that the same was necessary for the expenses of the witness in attending, and the court shall determine the necessity for the same, and may disallow any fees to a witness unnecessarily subpoenaed.

The fees for jurors in criminal cases in justice courts shall be two dollars per day for each day of actual service as a juror, and the justice of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and the treasurer shall pay the same. [Amendment approved May 28, 1917; Stats. 1917, p. 1027.]

§ 4241. **Counties of twelfth class, salaries of officers.** In counties of the twelfth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries:

1. **County clerk.** The county clerk, four thousand dollars per annum, one deputy at one thousand two hundred dollars per annum, and also one deputy to act as courtroom clerk at one thousand two hundred dollars per annum. The county clerk shall also have for use in his office, and under his supervision and control, two stenographers, and each of said stenographers shall receive a salary of seventy-five dollars per month, to be paid in the same manner and out of the same fund as the salaries of county officers are paid. The said positions of stenographers shall be filled by the county clerk in the same manner as deputies are appointed by him. The county clerk shall also receive ten cents per name of each elector entered upon the great register of the county, and also such fees as may be allowed by law for issuing hunting and fishing licenses, and all naturalization fees allowed to the clerk by the naturalization laws of the United States. In any county of this class where an additional deputy clerk has been allowed on account of an increase in the number of departments of the superior court in and for said county since the year 1910, the deputy herein provided for to act as courtroom clerk shall take the place of, and perform the duties of such additional deputy so allowed on account of an increase in the number of departments of the superior court.

2. **Sheriff.** The sheriff, six thousand five hundred dollars per annum, and mileage for the service of any and all processes required by law to be served by him at the rate of ten cents per mile necessarily traveled in the performance of such duty within the county, and at the rate of ten cents per mile, one way only, for every mile necessarily traveled in the performance of such duty outside of the county. He shall have a deputy at a salary of one thousand five hundred dollars per annum. In any county of this class where an additional deputy sheriff has been allowed on account of an increase in the number of departments of the superior court in and for said county since the year 1910, the deputy herein provided for shall take the place of and perform the duties of such additional deputy so allowed on account of an increase in the number of departments of the superior court. Whenever any female prisoner or prisoners are in custody in the county jail of counties of this class, the sheriff of said county is hereby authorized and empowered, immediately upon such prisoner or prisoners being brought to the jail, to employ a matron, and to retain such matron in employment at the county jail so long as any female prisoner is in custody therein. Said matron shall perform the duties prescribed for matrons of the county jail in section four thousand two hundred twenty-six of the Political Code, and shall have the same rights and authority as are prescribed in said section for matrons of the county jail. For each and every day that said matron is actually employed, she shall receive a salary of three dollars, payable upon the presentation of a proper claim therefor, presented to and allowed by the board of supervisors.

3. **Recorder.** The county recorder, two thousand dollars per annum, and one deputy at one thousand five hundred dollars per annum; and six cents per folio for every instrument of any character transcribed by him or his deputies, which said amount shall be paid by the county treasurer out of the county treasury.

4. **Auditor.** The county auditor, two thousand four hundred dollars per annum, and two deputies each to receive one thousand five hundred dollars per annum. In addition to said deputies, the county auditor shall have the right to employ from time to time in his office, such additional assistants as may be required to promptly perform the work required to be done therein. Such assistants shall receive a salary of three dollars each, for each day that they are actually and necessarily employed, and such salary shall be paid out of the general fund of the county upon proper claims presented therefor to the board of supervisors; provided, however, that the total amount to be paid such assistants shall not exceed three hundred dollars in any one year.

5. **Treasurer.** The county treasurer, two thousand four hundred dollars per annum, and one deputy at one thousand five hundred dollars per annum. All fees and commissions collected by the treasurer in his official capacity shall belong to the county, and shall be paid into the county treasury.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum, and one deputy at one thousand five hundred dollars per annum. The tax collector shall also have ten clerks at seventy-five dollars per month each for not to exceed two months during each and every year. In addition to said deputy and said clerks, the tax collector shall have the right to employ from time to time in his office, such additional assistants as may be required to promptly perform the work required to be done therein. Such assistants shall receive a salary of three dollars each, for each day that they are actually and necessarily employed and such salary shall be paid out of the general fund of the county upon proper claims presented therefor to the board of supervisors; provided, however, that the total amount to be paid such assistants shall not exceed three hundred dollars in any one year.

7. **Assessor.** The county assessor, two thousand four hundred dollars per annum, a chief deputy at one thousand five hundred dollars per annum, and fifteen field deputies for the months of March, April, May and June of each year, each of which field deputies shall receive a salary of five dollars per day for each day actually employed in the performance of his duties. He shall also have two clerks for the months of January, February, March, April, May and June of each year at a salary of seventy-five dollars per month each, and one index clerk for the months of April, May and June of each year at a salary of seventy-five dollars per month. He shall also have for use in his office, and under his supervision and control, a draftsman, which office of draftsman is hereby by the terms of this act expressly created. It shall be the duty of said draftsman to prepare, under the supervision of the assessor for use in said office, proper books, blanks and plat-books. Said position of draftsman shall be filled by the assessor in the same manner as deputies are appointed by him, and said draftsman shall receive a salary of one thousand five hundred dollars per annum, to be paid in the same manner as the salaries of county officers are paid.

8. **District attorney.** The district attorney, three thousand dollars per annum. He shall have one deputy at a salary of two thousand four

hundred dollars per annum, and one deputy at a salary of one thousand five hundred dollars per annum; and he shall also have for use in his office, and under his supervision and control, a stenographer, which office of stenographer is hereby, by the terms of this act, expressly created. The said position of stenographer shall be filled by the district attorney in the same manner as deputies are appointed by him, and said stenographer shall receive a salary of seventy-five dollars per month, to be paid in the same manner as the salaries of county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now, or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, for full services, including his duties with and on the county board of education, two thousand five hundred dollars per annum, and actual traveling expenses when visiting schools of his county. He shall have two deputies at a salary of one thousand two hundred dollars each per annum.

12. **Surveyor.** The county surveyor shall receive a salary of two thousand dollars per annum, and he shall be allowed one deputy at a salary of one thousand five hundred dollars per annum. The county surveyor shall be allowed all necessary traveling and field expenses of self and chainmen or other help in the field. In addition, the county surveyor shall be allowed to employ all necessary inspectors and field or office help; provided, however, that before employing such inspectors or field or office help, the surveyor shall first obtain the consent of the board of supervisors to such employment. The salaries and expenses of such inspectors or field or office help shall be paid out of the county general fund upon proper claims presented therefor to the board of supervisors. In any county of this class where bonds have been or shall hereafter be issued under the provisions of section four thousand eighty-eight of the Political Code for the construction of roads, bridges or highways, the board of supervisors may at any time during the planning, laying out or construction of such roads, bridges, or highways, employ all necessary inspectors and field or office help to assist the surveyor in planning, laying out or constructing such roads, bridges and highways. All inspectors and field or office help so employed by the board of supervisors, shall work under the supervision of the surveyor, and board of supervisors, and shall not be employed longer than is necessary to actually complete the roads, bridges or highways constructed with funds created by such bond issue. The salaries of all persons so employed by the board of supervisors as such inspectors or field or office help, shall be prescribed by the said board, and all such salaries, together with the field expenses of all such inspectors or field or office help, shall be paid out of the fund created by such issue of bonds upon proper claims presented therefor to the board of supervisors.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered as hereinafter provided: In townships having a population of three

thousand or more, one hundred dollars per month. In townships having a population of not less than two thousand and under three thousand, fifty dollars per month. In townships having a population of not less than one thousand and under two thousand, forty dollars per month. In townships having a population of less than one thousand, thirty dollars per month; provided, however, that in townships having a population of six thousand or more, no person other than a duly qualified attorney at law shall be eligible to the office of justice of the peace. Said salaries enumerated in this paragraph shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases. All such fees as are allowed by law in civil cases shall be paid by all justices into the county treasury in the same manner as the fees of county officers are paid. It is hereby found as a fact that as to all townships having a population of less than three thousand the salaries provided for in this subdivision do not work an increase in compensation and the same shall apply immediately to incumbents.

14. **Constables.** Constables shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases: In townships having a population of more than three thousand, eighty dollars per month. In townships having a population of not less than two thousand and under three thousand, sixty dollars per month. In townships having a population of not less than one thousand and under two thousand, forty dollars per month. In townships having a population of less than one thousand, twenty-five dollars per month. All such fees as are now or may be hereafter allowed by law in civil cases shall be paid by all constables into the county treasury in the same manner as the fees of county officers are paid. It is hereby found as a fact that the changes in salaries of constables do not work an increase in compensation and the same shall apply immediately to incumbents. In addition to the monthly salary allowed herein, each constable shall be allowed ten cents per mile, for each mile necessarily traveled in the execution of all criminal process within the county, and ten cents per mile, one way only, for each mile necessarily traveled in the execution of all criminal process outside the county. In addition, each constable shall be allowed all expenses necessarily and actually incurred by him in transporting prisoners to court, and to prison, and all expenses necessarily and actually incurred by him in executing all process in civil cases.

15. **Statements by constables and justices of the peace.** It shall be the duty of each and every constable and justice of the peace to file on or before the first Monday of each and every month, a full and complete statement, showing all business, both civil and criminal, done during the preceding month, with the board of supervisors, and he shall file the same on or before said date above mentioned, with the clerk of said board. The statement of the constables shall contain a full and correct account of all process served in both civil and criminal actions, also in criminal cases the places where defendants were arrested, together with the mileage. And justices of the peace shall file a full and correct statement of all civil and criminal actions and fees received therefrom. Said statements to be sworn to either before the county clerk or some officer allowed by law to administer oaths.

16. **Population of townships.** The board of supervisors shall determine the population of each township for the purpose of fixing the salary of the township officers aforesaid.

17. **Supervisors.** Each supervisor, one thousand five hundred dollars per annum, for personal services performed by him as supervisor, member of the board of equalization, and road commissioner. Each supervisor shall also receive his actual and necessary traveling expenses incurred in performing any of the duties of his office, to be allowed by the board of supervisors and paid out of the county general fund; provided, that the amount so allowed him for such expenses shall not exceed eighty dollars for any one month.

18. **No fees for collecting licenses.** No fees shall be allowed the sheriff or tax collector for collecting licenses in counties of this class. [Amendment approved May 28, 1917; Stats. 1917, p. 995.]

§ 4242. **Counties of thirteenth class, salaries of officers.** In counties of the thirteenth class, county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand eight hundred dollars per annum, and there shall be and there is hereby allowed to the county clerk, in addition, one deputy who shall be paid the sum of one thousand five hundred dollars per annum, and one deputy who shall be paid the sum of one thousand three hundred dollars per annum, and one deputy who shall be paid the sum of one thousand two hundred dollars per annum, and one deputy who shall be paid the sum of one thousand dollars per annum; the said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of the county officers are paid; and provided, further, that in each year in which a new and complete registration of voters is required by law, said county clerk shall appoint an additional deputy or deputies, who shall receive the sum of seven and one-half cents per name for taking affidavits of registration, and claims for their service at said rate shall be presented to and allowed by the board of supervisors as other claims are presented and allowed; and provided, further, that all fees and commissions received by this office shall be turned over to the county and become the property of the county. All provisions of this paragraph shall apply to the present incumbent.

2. **Sheriff.** The sheriff, three thousand three hundred dollars per annum, and all commissions, fees and mileage for the service of papers or process coming from courts other than those of his own county; provided, that in counties of this class there shall be and is hereby allowed to the sheriff, one under-sheriff whose salary is hereby fixed at the sum of one thousand five hundred dollars per annum, and one deputy who shall be jailer, whose salary is hereby fixed at the sum of one thousand dollars per annum; and one deputy whose salary is hereby fixed at the sum of nine hundred dollars per annum; said deputies to be appointed by the sheriff and their salaries to be paid by the county in equal monthly

installments at the time and in the manner and out of the same fund as the salaries of county officers are paid. All the provisions of this paragraph shall apply to the present incumbent.

3. **Recorder.** The recorder, two thousand eight hundred dollars per annum; and one deputy, whose office is hereby expressly created, to be appointed by the recorder who shall receive a salary of one thousand four hundred dollars per annum, payable in monthly installments; and provided, further, that the recorder is hereby allowed as many copyists as may be required, who shall receive as compensation the sum of four cents per folio for recording any instrument or notice. The salaries of the deputy recorder and copyists herein provided, shall be paid by the county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of county officers are paid. All fees and commissions received by this office shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbent.

4. **Auditor.** The auditor, two thousand eight hundred dollars per annum; and there shall be and there is hereby allowed to the auditor in addition one chief deputy to be appointed by the auditor who shall be paid a salary of one thousand eight hundred dollars per annum, and one deputy who shall be appointed by the auditor who shall be paid a salary of one thousand two hundred dollars per annum, and one deputy who shall be appointed by the auditor who shall be paid a salary of nine hundred dollars per annum, and such additional clerks and assistants as the auditor may require, and whose compensation in the aggregate shall not exceed four hundred dollars in any one year; and provided, that the auditor shall file with the county clerk a verified statement showing in detail the amount paid, and the persons to whom said compensation is paid for such extra assistants aforesaid. The salaries herein provided shall be paid by the county in monthly installments at the same time and out of the same fund as the salaries of county officers are paid. All that portion of this paragraph relating to deputies and other assistants shall apply to the present incumbent.

5. **Treasurer.** The treasurer, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the treasurer, one deputy, to be appointed by him, who shall receive from the county a salary of one thousand dollars per annum, to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salaries of county officers are paid. All that portion of this paragraph relating to the salary of deputy shall apply to the present incumbent. All fees and commissions received by the treasurer shall be turned over to the county and become the property of the county.

6. **Tax collector.** The tax collector, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the tax collector the following deputies and assistants, whose offices are hereby created and who shall be appointed by the tax collector: one deputy at a salary of one thousand three hundred dollars per annum; and such assistants as the tax collector may re-

quire; provided, that the compensation of such assistants shall not, in the aggregate exceed the sum of one thousand two hundred fifty dollars in any one year; and provided, that the tax collector shall file with the county auditor a verified statement showing in detail, the amounts and the persons to whom said compensation is paid. The salaries of the said deputy and other assistants shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of the county officers are paid. All that portion of this paragraph relating to deputy and other assistants shall apply to the present incumbent.

7. **Assessor.** The assessor, two thousand eight hundred dollars per annum, and his actual traveling expenses when away from his office on county business; provided, that in counties of this class there shall be and there is hereby allowed to the assessor the following deputies and assistants, whose offices are hereby created and who shall be appointed by the assessor: one deputy at a salary of one thousand six hundred dollars per annum, one stenographer at a salary of nine hundred dollars per annum, one stenographer at a salary of eight hundred dollars per annum, and such other deputies as the assessor may require, and whose compensation in the aggregate shall not exceed the sum of five thousand dollars in any one year; and provided, that the assessor shall file with the county auditor, a verified statement showing in detail, the amounts, and the persons to whom said compensation is paid. The salaries of such deputies and stenographers shall be paid by said county in monthly installments and at the same time and in the same manner and out of the same fund that county officers are paid. All the provisions of this paragraph are to apply to the present incumbent. All fees and commissions, including poll tax, collected by this officer shall be turned over to the county and become the property of the county.

8. **Coroner.** The coroner, such fees as are now, or may hereafter be allowed by law.

9. **Public administrator.** The public administrator, such fees as are now, or may hereafter be allowed by law.

10. **District attorney.** The district attorney, two thousand five hundred dollars per annum, and actual traveling expenses when away from his office on county business; provided, that in counties of this class there shall be and there is hereby allowed to the district attorney, one deputy to be appointed by the district attorney who shall be paid the salary of one thousand two hundred dollars per annum; and one deputy to reside at Blythe or vicinity, who shall be paid a salary of five hundred dollars per annum; and provided, further, that a stenographer be appointed by the district attorney to be paid a salary of nine hundred dollars per annum. Said deputies and stenographer shall be paid out of the county treasury in monthly installments in the same manner and out of the same fund as county officers are paid. All the provisions of this paragraph shall apply to the present incumbents.

11. **Superintendent of schools.** The superintendent of schools, two thousand four hundred dollars per annum; his office shall be kept open on all business days from nine A. M. to five P. M.; he shall be allowed

his actual traveling expenses when visiting the schools of his county; provided, that in counties of this class there shall be and there hereby is allowed to the superintendent of schools, one deputy to be appointed by him who shall receive from the county a salary of one thousand two hundred dollars per annum to be paid by said county in monthly installments in the same manner and out of the same fund as the salaries of county officers are paid. That portion of this paragraph relating to deputies shall apply to the present incumbent.

12. **Surveyor.** The surveyor, one thousand five hundred dollars per annum, and in addition thereto, all necessary field assistants; provided, that in counties of this class there shall be and there hereby is allowed the surveyor, two deputies who shall be appointed by the surveyor of said county, and who shall be paid salaries as follows: one deputy at a salary of one thousand five hundred dollars per annum and one deputy at nine hundred dollars per annum. The salaries of said deputies herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salaries of county officers are paid. All necessary expenses for field assistants shall be paid by the county, and the actual cost of preparing assessor's maps, whenever a complete set of such maps is ordered prepared by the board of supervisors, said cost of preparing said assessor's maps not to exceed the sum of one thousand eight hundred dollars.

13. **Township officers.** From and after the first Monday after the first day of January, one thousand nine hundred fifteen, the officers of townships in counties of this class shall be one justice of the peace and one constable, anything in the provisions of section four thousand fourteen of this code to the contrary notwithstanding.

14. **Justices of the peace.** The justice of the peace in townships having a city or a portion thereof, situated therein and having a population of twelve thousand or more, one thousand five hundred dollars per annum, payable in monthly installments, which shall be in full for all services rendered by him in both civil and criminal cases tried before him, and he shall each month pay to the county treasurer all fines, commissions and fees collected by him as such justice of the peace, including fees for celebrating marriages and returning certificates thereof to the county recorder; and provided, further, that the board of supervisors of counties of the thirteenth class shall furnish each justice of the peace in townships having a population of twelve thousand or more, with a suitable office in which to hold court and shall also furnish the necessary furniture, books, blanks and supplies for said court; and provided, further, that in townships having a population of twelve thousand or more there shall be and there is hereby allowed to the justice of the peace, one clerk which office is hereby created who shall be appointed by the justice of the peace of said township, subject to the approval of the board of supervisors of the county and whose salary is hereby fixed at the sum of six hundred dollars per annum, payable in equal monthly installments out of the same fund and in the same manner and at the same time as the salary of the justice of the peace is paid. Said clerk shall take the oath of office prescribed for county officers and give

a bond in the sum of one thousand dollars conditioned for the faithful discharge of the duties of his office which bond shall be approved and filed in the same manner as are bonds of county officers. He shall keep a record of the proceedings of said court and issue all processes ordered by the justice of said court and receive and pay into the county treasury all fines, forfeitures and fees paid into said court. He shall render each month to the county auditor and the county treasurer, an exact account under oath of all fines, forfeitures and fees paid and collected and he shall prepare bonds, and justified bail when the amount has been fixed by the court or justice and may administer and certify oaths and shall remain in the courtroom of said court during court hours and during such other reasonable times as may be necessary for the proper performance of his duty. He shall have the custody of all records and papers of said court. For the purpose of this section the population of townships in counties of this class is hereby determined to be the population of such townships as shown by the federal census taken in the year A. D. one thousand nine hundred ten. In townships having a population of six thousand and less than twelve thousand the justice of the peace therein shall receive seventy-five dollars per month; in townships having a population of four thousand and less than six thousand, thirty-five dollars per month; in townships having a population of one thousand five hundred and less than four thousand, twenty-five dollars per month; in townships having a population of one thousand and less than one thousand five hundred, fifteen dollars per month, and in all other townships in said county, ten dollars per month; provided, however, that in all townships having an area equal to or exceeding one thousand square miles such salary shall not be less than fifty dollars per month. Each justice of the peace must pay into the county treasury once each month all fines collected by him in criminal cases, and the auditor shall withhold the warrant for salary until a sworn statement has been filed with him of all criminal cases tried and fines collected and paid into the county treasury. All provisions of this paragraph to apply to present incumbents.

15. **Constables.** Constables in townships having one or more cities, or portions thereof situated therein, and having a population of twelve thousand or more, fifteen hundred dollars per annum, payable in monthly installments, and their actual traveling expenses when engaged in official business outside of such townships, which shall be in full for all services rendered by them in all civil and criminal business. They shall charge and collect such fees as are allowed by law, and they shall each month pay into the county treasury all fees, forfeitures, fines, and commissions collected by them in the discharge of their duties as such constables. In townships having a population of six thousand and less than twelve thousand the constable shall receive fifty dollars per month; in townships having a population of four thousand and less than six thousand, twenty-five dollars per month; in townships having a population of one thousand five hundred and less than four thousand, twenty dollars per month; and in all other townships in said county ten dollars per month; provided, that in all townships having an area equal to or exceeding one thousand square miles such salary shall not be less than fifty

dollars per month; provided, further, that in addition to the salaries herein allowed, each constable except constables in townships having a city or portion thereof situated therein, and having a population of twelve thousand or more shall receive for their own use in civil cases, the fees allowed by law, and shall be paid out of the treasury of the county his actual traveling expenses outside of his own township, but within his county, for the service of the warrant of arrest or any other paper in a criminal case, both going and returning, ten cents per mile; for each mile actually traveled outside of his county both going and returning from the place of arrest or other service, five cents per mile; and for transporting prisoners to the county jail, the actual cost of transportation.

16. **Population of townships.** The population of several judicial townships for the purpose of fixing compensation of township officers shall be ascertained and declared by the board of supervisors on the first Monday after the first day of January, every odd numbered year.

17. **Supervisors.** Each supervisor one thousand five hundred dollars per annum, payable in monthly installments, and fifteen cents per mile one way for traveling expenses from his residence to the place of meeting of the board at the county seat, for not more than four board meetings per month, and the necessary actual expenses incurred by him while engaged in county business outside of his district, not exceeding in the aggregate the sum of three hundred dollars per annum.

18. **Purchasing agent.** The board of supervisors may appoint one of their own number as purchasing agent under the provision of section four thousand forty-one of the Political Code, and may pay him not to exceed seventy-five dollars per month in addition to his salary as supervisor, and may make rules and regulations and pass ordinances relating to the conduct of such office.

19. **When work not brought down to date.** Whenever the work of an office has not been brought down to date by the retiring officer and the present incumbent shall present to the board of supervisors a signed sworn statement setting forth explicitly, and in detail the work so lacking and which was in that condition when he was inducted into office, and provided the county auditor shall also certify to the public necessity of the work, the board of supervisors shall investigate such condition and may, if they, by resolution, certify that the public necessity demands it before the new incumbent can make up such work, employ additional help and provide for compensation for such time as such work consumes.

20. **Additional help.** Whenever the board of supervisors shall by resolution certify that on account of the formation of drainage, road or other special districts, the formation of which is provided by law, and the work of which imposes temporary and excessive clerical burdens upon any county office, or offices, they may appoint such additional help as they deem necessary until the said extra work is completed, and they shall fix the compensation therefor; and they may designate that such extra help shall work part of the time in one office and part of the time in another office. This shall not be construed to provide for permanent positions in any office to care for work which the law now may impose on such county office, but which shall only be exercised as a temporary measure to expedite the public business in a reasonable and business-like

manner for the purposes and under the conditions named. [Amendment approved May 28, 1917; Stats. 1917, p. 1125.]

§ 4243. **Counties of fourteenth class, salaries of officers.** In counties of the fourteenth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the county clerk one deputy for each department of the superior court in each of said counties, which offices are hereby created, as provided by section four thousand two hundred ninety of the Political Code of the state of California. Said deputies shall be appointed by said county clerk, shall be courtroom clerks of said departments, and shall each receive a salary of one hundred twenty-five dollars per month, which shall be paid by said county in monthly installments at the same time, in the same manner and out of the same funds as the salary of the county clerk is paid. There shall be also and is hereby allowed to said county clerk one office deputy, which office is hereby created. Said deputy shall be appointed by said county clerk and receive a salary of one hundred dollars per month, which shall be paid by said county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the county clerk is paid. In each year in which a new and complete registration of voters is required by law, said county clerk shall appoint an additional deputy or deputies, who shall receive the sum of seven and one-half cents per name for taking the affidavits of registration outside of the office of said county clerk, and the claims for their services at said rate shall be presented to and allowed by the board of supervisors as other claims are presented and allowed. In each year in which a general election is held the county clerk may appoint assistant clerks, which offices are hereby created, and whose compensation shall not exceed the sum of nine hundred dollars in the aggregate for all assistants so employed. All fees received by this office shall be turned over to the county and become the property of the county. All the provisions in this paragraph are to apply to the present incumbent.

2. **Sheriff.** The sheriff, two thousand five hundred dollars per annum and such mileage as is now allowed by law, and also all fees for service of papers in actions arising outside of this county; provided, that in counties of this class there shall be and hereby is allowed to the sheriff six deputies, whose offices are hereby created, and who shall be appointed by the sheriff, and shall be paid salaries as follows: One chief deputy sheriff at a salary of one thousand two hundred dollars per annum; one deputy sheriff, to act as a finger-print expert, at a salary of one thousand eighty dollars per annum; one deputy sheriff, to act as jailer, at a salary of one thousand two hundred dollars per annum; one deputy sheriff, to act as assistant jailer, at a salary of nine hundred dollars per annum; two of said deputies shall act as bailiffs of the superior court of said county, at a salary of one thousand dollars per annum each, one for each department thereof, as provided by section four thousand two hundred ninety of the Political Code of the state of California; and there shall

be and hereby is allowed to said sheriff an additional deputy, which office is hereby created, who shall be an office deputy, at a salary of one thousand dollars per year, and who shall be appointed by the sheriff. The salaries of all of said deputies shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the sheriff is paid. All fees and commissions except as hereinbefore in this paragraph mentioned shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbent.

3. **Recorder.** The recorder, two thousand two hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed the recorder six deputies who shall be appointed by the recorder, and shall be paid the following salaries, to wit:

One chief deputy at a salary of one thousand two hundred dollars per annum; five deputies at a salary of nine hundred dollars per annum. The salaries of said deputies shall be paid by the county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the county officers are paid. All fees and commissions received by this office shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbent.

4. **Auditor.** The auditor, two thousand dollars per annum. In counties of this class the auditor may appoint assistant auditors, which offices are hereby created, and whose compensation shall not exceed the sum of two thousand five hundred dollars per annum in the aggregate for all assistants so employed; and provided, that the auditor shall file with the county clerk a verified statement, showing in detail the amounts paid and the persons to whom such compensation has been paid for such assistance as aforesaid. The salaries of assistant auditors herein provided for shall be paid by the said county at the same time and in the same manner and out of the same funds as the salary of the auditor is paid; provided, that on and after January 1, 1919, the auditor shall receive two thousand two hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum; provided, that in counties of this class, there shall be and there hereby is allowed to the treasurer two office deputies, which offices are hereby created, at a salary of seventy-five dollars per month, and who shall be appointed by the treasurer. The salary of said deputies herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid; provided, that on and after January 1, 1919, the treasurer shall receive two thousand dollars per annum.

6. **Tax collector.** The tax collector, two thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the tax collector the following deputies, whose offices are hereby created, and who shall be appointed by the tax collector: One chief deputy at a salary of one hundred dollars per month, and such assistants as the tax collector may require; provided, that the compensation of such assistants shall not in the aggregate exceed the sum of two thousand six hundred dollars in any one year; and provided, further,

that the tax collector shall file with the county auditor a verified statement, showing in detail the amounts and the persons to whom said compensation is paid. The salaries of the said deputy and assistants herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid; provided, that on and after January 1, 1919, the tax collector shall receive two thousand two hundred dollars per annum.

7. **Assessor.** The assessor, three thousand dollars per annum; provided, that in counties of this class there shall be allowed to the assessor the following deputies, whose offices are hereby created, and who shall be appointed by the assessor: One deputy who shall be chief office deputy at a salary of one hundred twenty-five dollars per month; one office deputy at a salary of seventy-five dollars per month, and such field deputies as the assessor may require, and whose compensation in the aggregate shall not exceed six thousand five hundred dollars in any one year; and provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts and the persons to whom said compensation is paid. The salaries of such deputies shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the county officers are paid. All fees and commissions including commissions on poll taxes collected by this office shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbent.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the district attorney, two deputies, to be appointed by the district attorney, and who shall be regularly admitted to practice before the courts of the state of California. Each of said deputies shall receive a salary of one thousand six hundred twenty dollars per annum, which salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the said district attorney is paid. There shall be and there is hereby allowed to the district attorney a stenographer to be appointed by the district attorney, at a salary of seventy-five dollars per month, which said salary shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the district attorney. All the provisions of this paragraph are to apply to the present incumbent.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand two hundred fifty dollars per annum and actual traveling expenses when visiting the schools of the county; provided, that in counties of this class there shall be and there is hereby allowed to the superintendent of schools one office deputy, which office is hereby created, at a

salary of sixty-five dollars per month, and who shall be appointed by the said superintendent of schools. The salary of said deputy herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

12. **Surveyor.** The surveyor, eight dollars per day when actually employed by the county.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them as such officers: (1) In townships having a population of twelve thousand or over, one hundred twenty-five dollars; (2) in townships having a population of nine thousand or over up to twelve thousand, one hundred dollars; (3) in townships having a population of six thousand or over up to nine thousand, fifty dollars; (4) in townships having a population of three thousand or over up to six thousand, twenty-five dollars; (5) in townships having a population less than three thousand, ten dollars.

14. **Constables.** Constables shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid; which shall be in full for all services rendered by them in criminal cases: (1) In townships having a population of twelve thousand or over, one hundred twenty-five dollars; (2) in townships having a population of nine thousand or over up to twelve thousand, one hundred dollars; (3) in townships having a population of six thousand or over up to nine thousand, fifty dollars; (4) in townships having a population of three thousand or over up to six thousand, twenty-five dollars; (5) in townships having a population less than three thousand, ten dollars; provided, that in townships having more than one constable, each such officer shall receive a salary of seventy-five dollars per month; also provided, further, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the court or to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. **Supervisors.** Each supervisor, one thousand five hundred dollars per annum, payable in monthly installments, and fifteen cents per mile one way for traveling expenses from his residence to the place of meeting of the board at the county seat, for not more than four board meetings per month, and the necessary actual expenses incurred by him while engaged in county business outside of his district, not exceeding in the aggregate the sum of three hundred dollars per annum.

16. **Livestock inspector.** A livestock inspector, nine hundred dollars per annum, which shall be in full payment for all services rendered by said inspector.

17. **Population of townships.** For the purposes of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be determined by the United States census taken in one thousand nine hundred ten; provided, that the board of supervisors of said county may each four years thereafter cause a census of any or all townships in the county to be taken for the purpose of determining the population of said township or townships upon which to base the salaries of justices of the peace and constables.

18. **Fees of jurors.** In counties of this class grand and trial jurors in superior courts shall receive for each day's attendance, per day the sum of two dollars. In justices' courts in civil cases jurors shall receive for each day's attendance per day the sum of two dollars. In justices' and recorder's courts in criminal cases jurors shall receive for each day's attendance per day the sum of one dollar and fifty cents. And all jurors shall receive for each mile actually and necessarily traveled from their residences to the place of service, in going only, the sum of fifteen cents per mile, such mileage to be allowed but once during any session of the court where such jurors serve; provided, that the fees of all trial jurors in civil cases shall be paid by the litigants as other costs are paid, and jurors in criminal cases in recorders' courts shall be paid by the municipality in which such court is or may be established.

19. **Constitutionalty.** If any paragraph, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this section. The legislature hereby declares that it would have passed this section and each paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one or more paragraphs, sentences, clauses or phrases is declared unconstitutional. [Amendment approved May 28, 1917; Stats. 1917, p. 1007.]

§ 4244. **Counties of the fifteenth class, salaries of officers.** In counties of the fifteenth class, the county and township officers shall receive, as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk shall receive three thousand six hundred dollars per annum; provided, that in counties of this class there shall be, and there hereby is allowed to the county clerk the following clerks, deputies and employees who shall be appointed by the county clerk and shall be paid salaries as follows: Two deputies at a salary of one hundred twenty-five dollars per month each; one deputy at a salary of seventy-five dollars per month, and one stenographer and one copyist at a salary of sixty dollars per month each.

2. **Sheriff.** The sheriff shall receive four thousand eight hundred dollars per annum; and there shall be and there is hereby allowed to the sheriff the following deputies, who shall be appointed by the sheriff and shall be paid salaries as follows: One chief deputy at a salary of one thousand eight hundred dollars per annum; one courtroom deputy at a

salary of one thousand two hundred dollars per annum; one deputy sheriff to act as jailer, at a salary of one thousand two hundred dollars per annum.

The salaries of the deputies herein provided for shall be paid by the county in monthly installments at the same time and in the same manner and out of the same fund, as the salary of the sheriff is paid.

3. **Recorder.** The recorder, two thousand five hundred dollars per annum, and there shall be and there is hereby allowed to the county recorder two deputies who shall be appointed by the recorder and shall be paid a salary of nine hundred dollars per annum each. The recorder shall collect and pay into the county treasury the fees required by law; provided, that whenever the amount of the fees so collected in any one month shall exceed the sum of four hundred dollars, the recorder may in addition to his salary, retain for his own use one-half of all such excess.

4. **Auditor.** The auditor shall receive three thousand dollars per annum, and there is hereby allowed to the auditor three deputies who shall be appointed by the auditor, one who shall be paid one thousand eighty dollars per annum and one who shall be paid one thousand dollars per annum and one from August first to October first inclusive of each year who shall be paid sixty dollars per month; and it is further provided, that if the board of supervisors in any year shall act, order or direct the auditor to prepare and compile its annual statistical report, and on so performing such services and in that event, he shall be allowed the further sum of three hundred dollars payable upon the completion and acceptance of said report. The salaries of the deputies herein provided for shall be paid in the same manner as the salary of the auditor is paid.

5. **Treasurer.** The treasurer shall receive two thousand four hundred dollars per annum; and there is hereby allowed to the treasurer one deputy to be appointed by him who shall receive a salary of six hundred dollars per annum which shall be paid by the county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid.

6. **Tax collector.** The tax collector shall receive two thousand eight hundred dollars per annum; and there shall be and there hereby is allowed to the tax collector one deputy who shall be appointed by the tax collector and shall receive a salary of one hundred dollars per month.

7. **License collector.** The license collector shall receive ten per cent of all licenses collected by him.

8. **Assessor.** The assessor shall receive four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the assessor the following deputies, clerks and assistants to be appointed by said assessor which positions are hereby created and the salaries of which are hereby fixed as follows: One chief deputy assessor, one thousand eight hundred dollars per annum; one office deputy assessor, seven hundred twenty dollars per annum; eight field deputy assessors for not exceeding four months in any one year,

one hundred twenty-five dollars each per month; four field deputy assessors for not exceeding three months in every one year, one hundred twenty-five dollars per month; three copyists for not exceeding three months in any one year, eighty dollars per month; and such additional assistants as the assessor may require, and whose compensation shall not in the aggregate, exceed the sum of one thousand five hundred dollars per annum, said additional assistants to be paid for their services on the presentation and filing with the board of supervisors of said county a duly verified claim or claims therefor. Said assessor may employ such assistants as may be necessary in making maps, plats and drawings essential for the use in the assessor's office in the performance of his duty, and the expense thereof shall be a charge against the county. It is hereby further provided, that the said assessor shall retain no commission for the collection of personal property taxes, state poll taxes or road poll tax, but that all such claims shall be paid into the county treasury and become the property of the county.

9. **District attorney.** The district attorney shall receive three thousand six hundred dollars per annum, and said district attorney while in receipt of said salary shall be disqualified from engaging in the practice of law in any and all of the courts of this state, in any action or cause wherein the county in which he is elected and serves or the state of California is not a party or parties; and there is hereby allowed to the district attorney one deputy to be appointed by him who shall receive a salary of one thousand eight hundred dollars per annum, one stenographer who shall receive a salary of one thousand two hundred dollars per annum, and there is hereby allowed the district attorney one detective to be appointed by him who shall receive a salary of one thousand two hundred dollars per annum, and shall be subject to removal at any time by the district attorney.

10. **Coroner.** The coroner shall receive such fees as are now, or may hereafter be allowed by law.

11. **Public administrator.** The public administrator shall receive such fees as are now, or may hereafter be allowed by law.

12. **Superintendent of schools.** The superintendent of schools, two thousand five hundred dollars per annum; and there shall be and there is hereby allowed to the superintendent of schools, one deputy, who shall be appointed by the superintendent of schools, and shall be paid a salary of nine hundred dollars per annum.

13. **Surveyor.** The surveyor shall receive two thousand dollars per annum, and necessary traveling expenses while in the performance of the duties of his office.

14. **Supervisors.** Each supervisor, one thousand two hundred dollars per annum, and mileage at twenty cents per mile, for all distances traveled by him as supervisor or as road commissioner; such mileage not to exceed in any one year the sum of one thousand dollars.

15. **Reporter.** The official shorthand reporter shall receive two thousand dollars per annum for the department of the superior court to

which he has been appointed. Whenever one reporter shall be appointed to, and shall perform the duties required of the official shorthand reporter, for more than one department of said superior court, he shall receive a salary therefor of two thousand eight hundred dollars per annum. In addition thereto he shall receive for transcribing notes, the sum of ten cents per folio for the original, and five cents per folio for all copies thereof.

16. **Justices of the peace. Fees of justices.** In townships having a population of seven thousand or over, two justices of the peace shall be elected, and each shall receive a salary of one hundred twenty-five dollars per month. In townships having a population less than seven thousand and over four thousand there shall be but one justice of the peace elected and he shall receive a salary of fifty dollars per month. In all other townships there shall be but one justice of the peace, who shall receive a salary of twenty dollars per month. All justices in counties of this class shall collect in civil cases only, the following fees, to wit:

(1) For all services before trial or entry of judgment by default or confession, two dollars, and for all additional services in such action, including execution and satisfaction of judgment, two dollars.

(2) For the trial of civil actions and all proceedings subsequent thereto, three dollars.

(3) For certificate and transmitting papers and transcript on appeal, one dollar.

(4) For copies of papers on docket per folio, ten cents.

(5) For issuing a search warrant, the fee to be paid by the party demanding the same, one dollar.

(6) For celebrating a marriage, and returning a certificate thereof to the county recorder, five dollars.

(7) For taking an acknowledgment of an instrument, for the first name fifty cents, and for each additional name twenty-five cents.

(8) For administering an oath, and certifying the same, fifty cents.

(9) For issuing a commission to take testimony, one dollar.

(10) For all services connected with the posting of estrays one dollar.

(11) For issuing each affidavit, certificate, process, writ, order, or paper, or paper required by law to be issued, not otherwise herein provided for, twenty-five cents.

(12) For taking bail in all proceedings, pending before another magistrate, fifty cents.

All such fees collected by such justice shall be paid into the general fund of the county treasury.

17. **Constables. Fees of constables.** In townships having a population of seven thousand or over, two constables shall be elected and each shall receive a salary of forty dollars per month. In townships having a population less than seven and over four thousand, there shall be but one constable elected, and he shall receive a salary of twenty-five dollars per month. In all other townships there shall be but one constable

who shall receive twenty dollars per month. All constables in addition to the salaries above provided for, shall receive and collect, for their use and benefit, in civil cases only, the following fees, to wit:

(1) For serving summons and complaints, for each defendant served fifty cents.

(2) For each copy of summons made by him, twenty-five cents.

(3) For levying writ of attachment or execution, or executing an order of arrest, in a civil case or for delivery of personal property, two dollars.

(4) For serving a writ of attachment or execution on any ship, boat, or vessel, three dollars.

(5) For keeping personal property, such sum as the court may order, but no more than two dollars fifty cents per day, for a keeper, when necessarily employed.

(6) For taking a bond or undertaking, one dollar.

(7) For copies of writs or other papers, except summons, complaints, and subpoenas, per folio fifteen cents; provided, that when correct copies are furnished him for use, no charges shall be made for such copies.

(8) For serving any writ, notice or order, except summons, complaint, or subpoena, for each person served, fifty cents.

(9) For writing and posting each notice of sale of property, fifty cents.

(10) For furnishing notice of publication, twenty-five cents.

(11) For serving subpoenas, each witness including copy, fifty cents.

(12) For collecting money on execution two and one-half per cent.

(13) For executing and delivering certificate of sale, fifty cents.

(14) For executing and delivering constable's deed, two dollars and fifty cents.

(15) For each mile actually traveled within his county in the service of any civil suit, order, or paper, in going only, per mile, twenty-five cents. No constructive mileage shall be allowed.

(16) For each mile necessarily traveled within his county, in executing a warrant of arrest, both in going to and returning from the place of arrest, fifteen cents; and the actual cost of the transportation of the prisoner or prisoners from the place of arrest to the justice court, and the necessary expense of assistance; provided, that for traveling in performance of two or more official services at the same time, including the service of criminal process, but one mileage shall be charged.

(17) For each mile necessarily traveled outside his county in executing a warrant of arrest, both in going to and returning from the place fifteen cents.

(18) For transporting prisoners to the county jail, from the justice's court or from the county jail to the justice's court actual cost of transportation and assistance, and mileage at twenty-five cents per mile, one way. In conveying two or more prisoners, but one mileage shall be charged.

(19) For each day in which the constable is charged with the custody of a prisoner or prisoners, two dollars fifty cents, and for necessary expense of maintenance and assistance in keeping said prisoners.

(20) For summoning a jury in a civil case, twenty-five cents for each of the persons so summoned, and mileage at the rate of twenty-five cents per mile, going only.

(21) For attending court during the trial of a civil cause, per day, three dollars.

(22) For making sales of estrays in civil cases, the same fees as for sales on execution.

(23) For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupants therefrom three dollars per day, and mileage at twenty-five cents per mile, going only.

(24) The mileage provided for herein shall be computed for the shortest practicable traveled route between the two points for which mileage is claimed.

18. **Jurors.** The fees of grand jurors and trial jurors in the superior courts of said counties of the fifteenth class, in civil and criminal cases shall be three dollars, in lawful money of the United States, for each day's attendance, and mileage to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for.

19. **Jurors in justices' courts.** The fees of jurors in justices' courts in civil and criminal cases, shall be two dollars in lawful money of the United States for each day's attendance and mileage to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court in going only; in criminal cases such fees and mileage of said trial jurors in the justices' courts shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said jury was in attendance and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriations for the payments of the fees herein provided for.

20. **Monthly payments.** All salaries provided for in this article shall be paid out of the treasury of the county in monthly installments, and all fees shall be paid from the county treasury as other bills against the county are paid. [Amendment approved May 28, 1917; Stats. 1917, p. 1249.]

§ 4245. **Counties of sixteenth class, salaries of officers.** In counties of the sixteenth class, the county and township officers shall receive, as full compensation for the services required of them by law, or by virtue of their office, the following salaries:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class, there shall be and there is hereby allowed to the county clerk the following clerks, deputies and employees who shall be appointed by the county clerk and shall be paid salaries as follows: One chief deputy at a salary of one hundred thirty-five dollars per month; two courtroom deputies at a salary of one hundred twenty-five dollars each per month; one office deputy at a salary of one hundred dollars per month; one stenographer at a salary of ninety dollars per month; one copyist at a salary of seventy dollars per month; provided, further, that in any year the compilation of a registration of voters is required by law, or supplements to be made thereto, the county clerk shall receive as expenses for compiling such registration of voters and making supplements thereto, and work incident to elections, the sum of five cents for each name registered, to be paid upon the filing and presentation of duly verified claims therefor, by the county clerk with the board of supervisors of said county; and provided, further, that in any year when a registration of voters is required by law or supplements to be made thereto, the said county clerk may appoint such number of registration deputies as may be necessary for the registration of voters in their respective precincts, each of said deputies to receive the sum of ten cents per name for each elector registered by him; said registration deputies to be paid for their services on the presentation and filing with the board of supervisors of said county, a duly verified claim therefor on the general fund of said county, after proper allowance of said claim by said board of supervisors; the salaries of the deputies, clerks and employees herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid; provided, further, that the compensation for registration of electors and compilation of the registration of voters and supplements thereto as herein provided for, shall not be paid in monthly installments but shall be paid after proper allowance of such claims by the board of supervisors of said county.

2. **Sheriff.** The sheriff, five thousand dollars per annum. All mileage for service of papers in civil action arising either inside or outside of the county, excepting actions in which the county is interested. All fees for service of papers in civil actions. All expenses incurred in criminal cases and mileage in criminal cases, for each mile actually and necessarily traveled by automobile twelve and one-half cents per mile. The sum of thirty-seven and one-half cents per day for feeding each prisoner committed to his custody; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff, the following deputies, clerks and employees, who shall be appointed by the sheriff, and shall be paid salaries as follows: One chief deputy sheriff at a salary of one hundred sixty-six and seventy-five one-hundredths dollars per month; one deputy sheriff for the office at a salary of one hundred twenty-five dollars per month; one deputy sheriff to act as jailer at a salary of one hundred dollars per month; two deputy sheriffs to act as bailiffs at a salary of one hundred dollars per month each, and a stenographer to the sheriff at a salary of ninety dollars per month. The salaries of the deputies, clerks and employees herein provided for shall be paid by the county in

monthly installments, at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid.

3. **Recorder.** The recorder, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the recorder the following deputies, clerks and employees, who shall be appointed by the county recorder, and shall be paid salaries as follows: One chief deputy, at a salary of one hundred thirty-five dollars per month; one deputy at a salary of one hundred ten dollars per month; two index clerks, at a salary of seventy-five dollars each per month; three copyists, at a salary of eighty dollars each per month; and two copyists at a salary of seventy-five dollars each per month. The salaries of the deputies, clerks and employees herein provided for shall be paid by the county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the county recorder is paid.

4. **Auditor.** The auditor, three thousand two hundred fifty dollars per annum; provided, that in counties of this class, there shall be and there hereby is allowed to the auditor the following clerks and employees, who shall be appointed by the county auditor, and shall be paid salaries as follows: One deputy auditor at a salary of one hundred twenty-five dollars per month and a sum not to exceed nine hundred dollars in any one year for such additional clerk hire as may be necessary, said clerks not to secure a greater amount than three dollars per day each. The salaries of the clerks and employees herein provided for shall be paid by the county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the county auditor is paid. The auditor is further allowed a deputy who shall be a qualified accountant, to act as chief accountant provided that the uniform system of accounting as devised by the state board of control is installed and continuously employed, who shall receive a salary of one hundred fifty dollars per month.

5. **Treasurer.** The treasurer, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the treasurer, one deputy treasurer who shall be appointed by the treasurer and who shall receive a salary of one hundred dollars per month, said salary to be paid in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid; provided, however, that the bond of the treasurer shall be executed with a reliable bonding and surety company and that the cost of said bond, when duly approved, shall be a charge against the county and payable out of the general fund.

6. **Tax collector.** The tax collector, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the tax collector the following clerks, deputies and employees, who shall be appointed by the tax collector, and shall be paid salaries as follows: One deputy tax collector at a salary of one hundred thirty-five dollars per month; one stenographer to the tax collector at a salary of ninety dollars per month; and such copyists as the tax collector may appoint at a salary of not to exceed two and one-

half dollars per day each; provided, however, that the total amount of salary and compensation paid to such copyists shall not exceed the sum of one thousand seven hundred dollars per annum; one index clerk to be paid not to exceed one cent for each separate assessment appearing on the rolls each year; such copyists and index clerk to be paid for their services on the presentation and filing with the board of supervisors of said county a duly verified claim therefor. The salaries of the deputies, clerks and employees herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid; provided, however, that the compensation of said copyists and said index clerks shall be paid on the presentation and filing of claims with the board of supervisors as hereinbefore provided.

7. **District attorney.** The district attorney, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney the following deputies, clerks and employees who shall be appointed by the district attorney, who shall hold office at the pleasure of the district attorney and shall be paid salaries as follows: One chief deputy district attorney at a salary of two hundred dollars per month; one deputy district attorney at a salary of one hundred fifty dollars per month; and one stenographer to the district attorney at a salary of ninety dollars per month. The salaries of the deputies, clerks and employees herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid. The district attorney shall be allowed twelve and one-half cents per mile without any constructive mileage for his expenses for traveling, necessarily done by automobile; and his actual traveling expenses when he travels by rail.

8. **Superintendent of schools.** The superintendent of schools, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the superintendent of schools, one deputy superintendent of schools, who shall be appointed by the superintendent of schools, and shall be paid a salary of one hundred dollars per month; one field deputy superintendent of schools, who shall be appointed by the superintendent of schools, to assist the superintendent of schools in the discharge of his duty in visiting and examining schools, as provided by the state law, and it shall be his duty to make written report of his examination, to be transmitted by the superintendent of schools to each trustee of all districts so examined. Said field deputy shall receive a salary of two thousand dollars per annum, necessary and traveling expenses not to exceed four hundred dollars per annum; the salary of the deputies herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

9. **Assessor.** The assessor, five thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the assessor the following clerks, deputies and employees, who shall be appointed by the assessor, and shall be paid salaries as

follows: Two deputy assessors at a salary of one hundred thirty-five dollars per month each; three field deputy assessors to hold office during not to exceed five months each in any one year at a salary of one hundred twenty-five dollars per month each; one field deputy assessor to hold office not to exceed five months in any one year at a salary of one hundred dollars per month; one transfer deputy at a salary of ninety dollars per month and such additional deputy assessors and clerks as the assessor may appoint at a salary not to exceed five dollars per day each, not to exceed the sum of two thousand dollars per annum, and a sum not to exceed four hundred dollars per annum for traveling expenses, for field work; said additional deputies and clerks to be paid for their services on the presentation and filing with the board of supervisors of said county a duly verified claim therefor. The salaries of the deputies, clerks and employees herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid; provided, however, that the compensation of said additional deputy assessors, at a salary of not to exceed five dollars per day, shall be paid on the presentation and filing of claims with the board of supervisors as hereinbefore provided; provided, however, that in counties of this class the assessor shall receive no compensation or commissions for the collection of personal property taxes, nor shall such assessor receive any compensation or commission for making out the military roll of persons returned by him as subject to military duty as provided by section one thousand nine hundred one of the Political Code.

10. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law; provided, however, that in counties of this class there shall be and there hereby is allowed to the county coroner one stenographer to the coroner to be appointed by him at a salary of seventy-five dollars per month. The salary of the stenographer herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of the county officers are paid. All subpoenas or processes issued by said coroner may be served by any peace officer and fees for such service shall be paid as provided by law.

11. **Public administrator.** Public administrator, such fees as are now or may be hereafter allowed by law.

12. **Surveyor.** The surveyor, three thousand two hundred fifty dollars per annum and in addition thereto he shall by and with the approval of the board of supervisors be allowed his actual, reasonable and necessary expenses when engaged in the field or in the office in the discharge of his official duties; and shall have such field and office assistants, as he may need by and with the approval of the board of supervisors, to be paid as follows: Assistant surveyors at not to exceed six dollars per day, office and transit men at not to exceed six dollars per day and chainmen at not to exceed three dollars per day. The assistant surveyors, office and transit men, chainmen and other employees herein provided for shall be appointed by the county surveyor and their salaries shall be paid by said county in equal monthly installments at the

same time and in the same manner and out of the same fund as are the salaries of county officers of counties of this class.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries to be paid each month as the salaries of county officers are paid which shall be in full for all services rendered by them in criminal cases: (1) in townships having a population of ten thousand or more, one hundred seventy-five dollars per month; (2) in townships having a population of three thousand or more, one hundred dollars a month; (3) in townships having a population of two thousand five hundred or more and less than three thousand, fifty dollars a month; (4) in townships having a population of two thousand or more and less than two thousand five hundred, forty-five dollars a month; (5) in townships having a population of one thousand two hundred or more and less than two thousand, forty dollars a month; (6) in townships having a population of one thousand or more and less than one thousand two hundred, twenty dollars a month; (7) in townships having a population of four hundred fifty or more and less than one thousand, fifteen dollars a month; (8) in townships having a population of less than four hundred fifty, five dollars per month. Each justice must pay into the county once a month, all fines and fees collected by him in criminal and civil cases, and the auditor must withhold warrants for salary until a certified statement has been filed with him of all criminal and civil cases tried or filed and fines and fees collected and paid into the county treasury. In addition to the monthly salary allowed herein, each justice may receive as expenses for maintaining his office such sum as may be necessary not to exceed twenty per cent of the amount allowed him as salary.

14. **Constables.** Constables shall receive the following salaries to be paid each month as salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: (1) In townships having a population of three thousand or more, one hundred twenty-five dollars per month; (2) in townships having a population of two thousand five hundred or more and less than three thousand, eighty dollars a month; (3) in townships having a population of two thousand or more and less than two thousand five hundred, seventy-seven and one-half dollars a month; (4) in townships having a population of one thousand two hundred or more and less than two thousand, seventy-five dollars a month; (5) in townships having a population of one thousand or more and less than one thousand two hundred, thirty-five dollars a month; (6) in townships having a population of four hundred fifty or more and less than one thousand, twenty-five dollars a month; (7) in townships having a population of less than four hundred fifty, five dollars a month; provided, further, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own townships, for service of a warrant of arrest or any other paper in a criminal case, such fees as are now or may be hereafter allowed by law. For serving a coroner's subpoena the same fees and mileage as are now or may hereafter be allowed by law for the service of a subpoena issued out of a justice's court. For summoning of a coroner's jury the same fees

as are now or may be hereafter allowed for summoning a jury in a civil action in the justice's court. For transporting prisoners to the county jail, the expenses of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law.

15. **Population of townships.** The population of the several judicial townships, for the purpose of fixing the compensation of township officers, shall be ascertained and declared by the board of suervisors in the month of September, 1917, and in the month of September every four years thereafter.

16. **Board of supervisors.** Each member of the board of supervisors one thousand five hundred dollars per annum for personal services performed by him as supervisor, member of the board of equalization, and road commissioner. Each supervisor shall also receive as expenses, as supervisor and road commissioner not to exceed twenty cents per mile each way for traveling to and from his residene while engaged in the performance of the duties of supervision of public roads as road commissioner, or other business of the county, said expenses not to exceed fifty dollars in any one month.

21. **Bonds.** The bonds of county officers, their assistants, deputies, and employees such as required by law to be furnished, when executed with a reliable bond and surety company, the cost of said bond, when duly approved, shall be a charge against the county payable out of the general fund.

22. **Expenses.** Actual, reasonable and necessary expenses shall be allowed all the officers of the county in the discharge of their official duties. Detailed expense accounts must be rendered on the first day of each month for the expenses incurred within the previous month. For traveling necessarily done by automobile an officer shall be allowed mileage at the rate of twelve and one-half cents per mile without any constructive mileage, except as herein otherwise provided. [Amendment approved May 26, 1917; Stats. 1917, p. 978.]

§ 4246. **Counties of seventeenth class, salaries of officers.** In counties of the seventeenth class the county officers shall receive as compensation for services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk the following deputies who shall be appointed by the county clerk and shall be paid salaries as follows: One deputy clerk, at a salary of one thousand six hundred dollars per annum; one deputy clerk, at a salary of one thousand five hundred dollars per annum; and one deputy clerk, at a salary of one thousand dollars per annum. The salaries of the deputies herein provided for shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the county clerk. There shall be and hereby is allowed to the county clerk for the making of a complete registration of voters and of revis-

ing the same from time to time, as required by law, such additional clerks and assistants as he may require and whose compensation in the aggregate shall not exceed one thousand dollars in any one year, and he shall also receive an additional sum of seven and one-half cents per name for each affidavit for registration taken outside of the office by deputy registration clerks, claims for the services of such additional clerks and assistants and for registrations outside of his office shall be presented to and allowed by the board of supervisors as other claims against the county are presented and allowed.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the sheriff two deputies, whose offices are hereby created and who shall be appointed by the sheriff; one at a salary of one hundred twenty-five dollars per month; and one at a salary of ninety dollars per month. The salaries of said deputies shall be paid by said county at the same time and in the same manner and out of the same funds as the salary of the sheriff is paid; provided, further, that there shall be allowed the said sheriff and his deputies the actual traveling expenses in attending to the duties of the office both civil and criminal, including his necessary expenses for pursuing criminals or transacting any criminal business. All fees, commissions and mileage shall be turned over to the county and become the property of the county.

3. **Recorder.** The recorder, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder the following deputies, who shall be appointed by the recorder and shall be paid salaries as follows: One chief deputy at a salary of ninety dollars per month, and two deputies at a salary of seventy-five dollars per month each, said salaries to be paid by said counties in monthly installments at the same time and in the same manner and out of the same funds as the salary of the recorder is paid.

4. **Auditor.** The auditor, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the auditor one chief deputy, who shall be appointed by the auditor and paid a salary of one hundred dollars per month, said salary to be paid by the county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the auditor is paid; provided, also, that in counties of this class there shall be and hereby is allowed to the auditor such additional clerks and assistants as the auditor may require, and whose compensation in the aggregate shall not exceed five hundred dollars in any one year. Claims for the services of such additional clerks and assistants to be allowed and paid as other claims against the county are allowed and paid.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand five hundred dollars per annum, which shall be in full compensation for all services

rendered by him; provided, that in counties of this class there shall be and hereby is allowed to the tax collector one deputy who shall be appointed by said tax collector, at a salary of one thousand two hundred dollars per annum, said salary to be paid by said county in monthly installments at the same time, in the same manner and out of the same funds as the salary of the tax collector is paid; also provided, that the said tax collector shall be allowed such additional clerks and assistants as he may require and whose compensation in the aggregate shall not exceed the sum of two hundred dollars in any one year. Claims for services of such additional clerks and assistants to be allowed and paid as other claims against the county are paid. All commissions and fees of whatever character of the tax collector shall be paid into the county treasury.

7. **Assessor.** The assessor, two thousand five hundred dollars per annum, which shall be in full compensation for all services rendered by him; provided, that in counties of this class there shall be and is hereby allowed to the assessor two office deputies, one for a period of twelve months during each fiscal year, who shall be appointed by said assessor and be paid a salary of one hundred dollars per month; and one for a period of seven months during each fiscal year, who shall be appointed by said assessor and be paid a salary of seventy-five dollars per month; provided, also, that in the counties of this class there shall be and is hereby allowed to the assessor the following field deputies: Two for a period of four months each during each fiscal year, who shall be appointed by the assessor and be paid a salary of two hundred dollars per month each; two for a period of four months each during each fiscal year, who shall be appointed by the assessor and be paid a salary of one hundred twenty-five dollars per month each, and one for a period of four months during each fiscal year, who shall be appointed by the assessor and be paid a salary of sixty dollars per month; said salaries to be paid by said county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the assessor is paid; and provided, further, that said assessor shall be allowed such additional clerks and assistants as he may require and whose compensation in the aggregate shall not exceed the sum of one thousand dollars in any one year. Claims for the services of such additional clerks and assistants to be allowed and paid as other claims against the county are paid; and provided, further, that the assessor shall be allowed his actual traveling expenses including the expense of operating and maintaining an automobile, when engaged in attending to official business not exceeding the sum of two hundred dollars in any one year, claims for which expenses shall be allowed and paid as other claims against the county are allowed and paid, but if the county shall provide and maintain an automobile for the use of the assessor's office no transportation expenses shall be allowed the assessor or his deputies when traveling in the county. All commissions on personal property tax collections and any other commissions or fees heretofore or now allowed by law to the assessor, shall be paid by him into the county treasury.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be

and is hereby allowed to the district attorney the following deputies, who shall be appointed by the district attorney and shall be paid salaries as follows: One chief deputy at a salary of one hundred dollars per month; one deputy at a salary of seventy-five dollars per month and one deputy at a salary of fifty dollars per month; said salaries to be paid by said county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the district attorney is paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his or her county; provided, that in counties of this class there shall be and is hereby allowed to the superintendent of schools one deputy, who shall be appointed by the superintendent of schools and paid a salary of ninety dollars per month, said salary to be paid by said county in monthly installments, and at the same time and in the same manner and out of the same funds as the salary of the superintendent of schools is paid.

12. **Surveyor.** The county surveyor, for all services required of him as county surveyor and also for all services which may be required of him as a road engineer, shall receive one thousand five hundred dollars per annum and necessary costs of transportation to and from, and necessary expenses in the field while engaged on public work; provided, that in counties of this class there shall be and there is hereby allowed the county surveyor one deputy who shall be appointed by said county surveyor at a salary of ninety dollars per month, to be paid at the same time and in the same manner and out of the same funds as the salary of the county surveyor is paid; provided, further, that whenever said surveyor is directed by the assessor to plat, trace or otherwise prepare maps, plats or block-books for the use of the county assessor without charge or extra compensation therefor.

13. **Justices of the peace.** The justices of the peace shall receive the following monthly salaries, to be paid each month in the same manner and at the same time and out of the same funds as other county officers are paid, which shall be in full for all services rendered by them in civil and criminal cases: In Townships having a population of more than ten thousand, ninety dollars per month; in townships having a population of three thousand five hundred and not over ten thousand, seventy-five dollars per month; in townships having a population of two thousand and not over three thousand five hundred, fifty dollars per month; in townships under two thousand population, twenty-five dollars per month; provided, that in townships where there have been no justices of the peace appointed or elected for two years preceding, justices of the peace shall be allowed such fees as are now or may hereafter be allowed by law in criminal cases. For the purposes of this section the

population of townships in counties of this class is hereby determined to be the population of such townships as shown by the federal census taken in the year A. D. 1910.

14. **Constables.** Constables shall receive the following monthly salaries, to be paid each month and in the same manner and at the same time and out of the same funds as other county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than ten thousand, seventy-five dollars per month; in townships having a population of three thousand five hundred and not over ten thousand, seventy dollars per month; in townships having a population of two thousand and not over three thousand five hundred, forty dollars per month; in townships having a population of under two thousand, twenty-five dollars per month; provided, that in townships where there have been no constables appointed or elected for two years preceding, constables shall be allowed such fees as are now or may hereafter be allowed by law in criminal cases. In addition to the above compensation received in criminal cases, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil cases. Constables shall also be allowed all necessary expenses incurred in conveying prisoners. For the purposes of this section the population of townships in counties of this class is hereby determined to be the population of such townships as shown by the federal census taken in the year A. D. 1910.

15. **Supervisors.** Each supervisor for all services required of him as supervisor and ex-officio road commissioner, one thousand five hundred dollars per annum and twenty cents per mile for traveling from his residence to the county seat to attend meetings of the board of supervisors. No other mileage or remuneration, and no traveling expenses shall be allowed. [Amendment approved May 28, 1917; Stats. 1917, p. 1063.]

§ 4247. **Counties of eighteenth class, salaries of officers.** In counties of the eighteenth class the county officers shall receive, as compensation for services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand three hundred dollars per annum, and such fees as are allowed by law for issuing hunting and fishing licenses, and for the naturalization of persons desiring to become citizens; also five hundred dollars additional per year for the registration of voters. He shall also be allowed to appoint one chief deputy, which office of chief deputy is hereby created, who shall receive as compensation the sum of one thousand five hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid; and provided, further, that in any year when a registration of voters is required by law, that said county clerk may appoint such number of deputies, who are hereby designated and shall be known as registration deputies, with full power to register electors as may be necessary for the convenient registration

of voters in their respective precincts or townships, each of said registration deputies to receive the sum of ten cents per name for each elector registered by him. The compensation of such registration deputies for such registration of electors shall be paid out of the general fund of the county on a duly verified claim therefor approved by said county clerk and allowed by the board of supervisors of said county.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum, and the fees or commissions for the service of all papers whatsoever issued by any court outside of the superior court in and for his county. He shall appoint a jailer to take charge of the branch county jail, at a salary of nine hundred dollars per annum, an under-sheriff at a salary of one thousand five hundred dollars per annum, a deputy jailer at a salary of one thousand two hundred dollars per annum, who shall act as a jailer for the county jail, and a deputy jailer who shall be custodian of the courthouse grounds at a salary of one thousand two hundred dollars per annum, and the salaries of which deputies shall be paid by the county in the same manner and out of the same fund as the salaries of other county officers are paid.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum. He shall also be allowed one deputy which office of deputy recorder is hereby created, who shall receive as compensation the sum of one thousand five hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid. He shall also be allowed two copyists which two offices of copyists are hereby created, who shall receive as compensation the sum of seven hundred eighty dollars, each per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

4. **Auditor.** The auditor, two thousand four hundred dollars and such fees as are allowed by law. The auditor shall also be allowed one deputy auditor which office of deputy auditor is hereby created, who shall receive as compensation the sum of one thousand five hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

5. **Treasurer.** The treasurer, two thousand eight hundred dollars per annum. He shall also be allowed one deputy which office of deputy treasurer is hereby created, who shall receive as compensation the sum of one thousand five hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

6. **Tax collector.** The tax collector, three thousand dollars per annum. He shall also be allowed one deputy, which office of deputy tax collector is hereby created, who shall receive as compensation the sum of nine hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of the other county officers are paid.

7. **Assessor.** The assessor, four thousand dollars per annum. He shall also be allowed one deputy which office of deputy is hereby created, who shall receive as compensation one thousand five hundred dollars per

annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid. The assessor shall also be allowed all fees and commissions allowed him by law for collection of personal property taxes and for preparation of roll of persons subject to military duty.

8. **District attorney.** The district attorney, two thousand seven hundred dollars per annum. The district attorney shall also be allowed one stenographer, which office of stenographer is hereby created, who shall receive as compensation the sum of one thousand twenty dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, eight hundred dollars per annum.

11. **Superintendent of schools.** The superintendent of schools, two thousand four hundred dollars per annum, and actual traveling expenses when visiting the schools in his county; provided, the superintendent of schools may appoint one assistant superintendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation the sum of one thousand twenty dollars per annum, payable at the same time and in the same manner as the salaries of other county officers are paid.

12. **Surveyor.** The surveyor shall receive ten dollars per diem for each day actually employed in the performance of his duties as a county officer, and in addition thereto all necessary expenses, such as transportation and pay of help which may be necessary for the performance of county duties.

13. **Justices of the peace.** Justices of peace, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of six thousand or more, one hundred dollars per month; in townships having a population of two thousand four hundred and less than six thousand, seventy-five dollars; in townships having a population of two thousand and less than two thousand four hundred, sixty-five dollars; in townships having a population of one thousand five hundred and less than two thousand, fifty-five dollars; in townships having a population of one thousand and less than one thousand five hundred, thirty dollars; in townships having a population of eight hundred and less than one thousand, twenty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population of less than five hundred, ten dollars. Each justice must pay into the county treasury, once a month, all fines and fees collected by him in criminal and civil cases as provided for by law.

14. **Constables.** Constables, the following salaries which shall be paid monthly as salaries of the county officers are paid, and which shall be

in full for all services rendered by them in criminal cases, to wit: In townships having a population of one thousand eight hundred and more, one hundred dollars; in townships having a population of one thousand five hundred and less than one thousand eight hundred, eighty dollars; in townships having a population of one thousand and less than one thousand five hundred, fifty dollars; in townships having a population of eight hundred and less than one thousand, thirty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population of less than five hundred, ten dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions. For the purpose of this section, the basis of calculation for fixing the compensation of justices and constables above mentioned, the population of the different townships of the county shall always be based upon the figures as shown by the last United States census; provided, however, that whenever the census of any township or townships shall have been taken under the provisions of this title, said census may become the basis of calculation.

15. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum for all services rendered including mileage and including services as road commissioners; provided, that when required to go on business to any point outside of said county, they shall be allowed actual expenses.

16. **Board of education.** Each member of the county board of education shall receive ten cents per mile for traveling from his or her residence to the county seat; provided, that mileage be not allowed for more than two meetings in any one month.

17. **In effect, when.** Sections one, three, four, five, seven, eight, eleven and the provisions of section fourteen relating to townships having a population of one thousand eight hundred and more shall go into effect ninety days after final adjournment of the legislature.

The salaries herein allowed are in full compensation for all duties performed by either principals or their deputies and all fees of every kind collected by each officer or his deputy except the assessor and his deputies, as provided in section seven of this act, shall be paid into the county treasury as provided by law except that the county clerk, sheriff, assessor, coroner, and constables, shall each be allowed the fees and commissions as provided for in subdivisions one, two, seven, nine, and fourteen, respectively of this act. [Amendment approved May 28, 1917; Stats. 1917, p. 1137.]

§ 4248. **Counties of nineteenth class, salaries of officers.** In counties of the nineteenth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, four thousand five hundred dollars per annum; provided, that in years when a great register of voters is required by law to be made, the county clerk shall receive in addition

to his regular salary the sum of one thousand two hundred dollars for such service. The said clerk may appoint one chief deputy clerk, which said office of chief deputy clerk is hereby created. The salary of such chief deputy clerk is hereby fixed at one thousand two hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

2. **Sheriff.** The sheriff, six thousand dollars per annum.

3. **Recorder.** The recorder, three thousand two hundred dollars per annum. The recorder shall also be allowed two copyists, to be appointed by himself, at a salary of seventy-five dollars per month, to be paid at the same time and in the same manner as the salary of county officers is paid.

4. **Auditor.** The auditor, one thousand five hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, three thousand dollars per annum.

7. **Assessor.** The assessor, three thousand five hundred dollars per annum, and the fees and commissions now or hereafter allowed by law. The assessor shall also be allowed the following deputies, to be appointed by him, viz: One chief deputy assessor, which office is hereby created, at a salary of two thousand one hundred dollars per year; and four deputy assessors. Each of such deputy assessors shall receive a monthly compensation of one hundred dollars, for the months of March, April, May and June of each year, the salary of such deputies to be paid in the same manner, and out of the same fund as the assessor, upon the presentation of a certificate that services have been performed, and signed by the assessor. The salary of the chief deputy assessor shall be paid by the said county, in monthly installments, at the same time, manner and out of the same fund as the county assessor is paid.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum; assistant district attorney, one thousand five hundred dollars per annum; provided, that in counties of this class the district attorney may appoint a stenographer, which office of stenographer to the district attorney is hereby created, and such stenographer shall receive as compensation for his or her services the sum of six hundred dollars per annum, to be paid in equal monthly installments in the same manner, at the same time and out of the same fund as the salary of other county officers is paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum, and his actual traveling expenses when visiting schools, not to exceed ten dollars per district; provided, that

the said superintendent of schools may appoint one deputy superintendent of schools, which office of deputy superintendent of schools is hereby created, and such deputy shall receive compensation for his or her services the sum of seven hundred twenty dollars per annum, to be paid in equal monthly installments in the same manner, at the same time and out of the same fund as the salary of other county officers is paid.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Township officers.** In counties of this class the township officers shall receive the following compensation, to wit:

(a) In townships having a population of four thousand five hundred, or more, each justice of the peace shall receive a salary of one hundred fifty dollars per month, and each constable a salary of ninety dollars per month.

(b) In townships having a population of two thousand, or more, and less than four thousand five hundred, each justice of the peace shall receive a salary of sixty dollars per month, and each constable a salary of sixty dollars per month.

(c) In townships having a population of one thousand nine hundred twenty-five or more, and less than two thousand, each justice of the peace shall receive a salary of forty-five dollars per month, and each constable a salary of fifty dollars per month.

(d) In townships having a population of one thousand eight hundred, or more, and less than one thousand nine hundred twenty-five, each justice of the peace shall receive a salary of thirty-two dollars and fifty cents per month, and each constable a salary of forty dollars per month.

(e) In townships having a population of seven hundred thirty, or more, and less than one thousand eight hundred, each justice of the peace shall receive a salary of twenty dollars per month, and each constable a salary of twenty-five dollars per month.

(f) In townships having a population of less than seven hundred thirty, each justice of the peace shall receive a salary of five dollars per month, and each constable a salary of five dollars per month.

The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; provided, that each constable shall be allowed and paid the actual expense of transporting prisoners, after conviction, to the county jail, which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury.

Said justices of the peace and constables may receive and retain for their own use such fees as are now or may hereafter be allowed by law for all services rendered by them in civil actions.

The salaries of township officers as herein provided for shall be paid in the same manner, at the same time, and out of the same funds that county officers are paid.

For the purpose of this subdivision the population of the several judicial townships is hereby determined to be the population of said townships as shown by the federal census taken in the year A. D. nineteen hundred and ten.

14. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum, and mileage when acting as road commissioner, twenty-five cents per mile one way; provided, the amount of mileage shall not exceed the sum of three hundred dollars in any one year.

15. **Board of education.** Members of the board of education, each the sum of five dollars per day for actual service, together with mileage at ten cents per mile.

16. **Jurors.** In counties of this class grand jurors and trial jurors in criminal cases in the superior court shall each receive for each day's attendance the sum of three dollars, and the mileage allowed by law.

17. **In effect, when.** Sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen hereof shall become operative as soon as this act takes effect, and shall apply to incumbents in office. [Amendment approved May 28, 1917; Stats. 1917, p. 1245.]

§ 4249. **Counties of twentieth class, salaries of officers.** In counties of the twentieth class, the county and township officers shall receive as full compensation for the services required of them by law, or by virtue of their office, the following salaries and fees, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum, and such fees as are now, or may be hereafter allowed by law, and in any year when a new great register of voters is required by law, he shall receive, in addition thereto, ten cents per name for each person registered. He may appoint one deputy who shall receive a salary of one thousand eight hundred dollars per annum; one deputy who shall receive a salary of one thousand five hundred dollars per annum; one deputy who shall receive a salary of one thousand two hundred dollars per annum; and one deputy who shall be a stenographer, at a salary of nine hundred dollars per annum; and during any year when an official primary election is held in the county, he may appoint one additional deputy, to serve for a period of four months only, at a monthly salary of seventy-five dollars. The deputies, clerks and stenographer herein provided for shall be paid by the county at the same time and in the same manner and out of the same fund as the county clerk is paid, In any year when a new registration of voters is required by law, he may appoint such number of deputies as may be necessary for the convenient registration of voters in their respective precincts, such deputyships and offices being hereby created. Each of said deputies shall be paid by the county the sum of ten cents per name for each elector registered by him. Said compensation to be paid out of the general fund of the county, on the presentation and filing with the board of supervisors of the county, of a duly verified claim therefor, approved by the county clerk. On and after January sixth, 1919, all fees, commissions and perquisites from whatever source received and collected by the county clerk, except the said sum of ten cents per name received by him for each person registered, shall be paid into the county treasury, and shall belong to the county.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum; provided, there shall be and there hereby is allowed to the sheriff the following deputies, which offices are hereby created, who shall be appointed by the sheriff, and shall be paid salaries as follows: One chief deputy at a salary of one hundred fifty dollars per month, one deputy at a salary of one hundred dollars per month, and one deputy to act as jailer at a salary of one hundred dollars per month. The salaries of the deputies and employees herein provided for shall be paid by the county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the sheriff is paid. In criminal cases, and actions in which the county is interested, the sheriff shall receive only actual expenses incurred and no more. All claims against the county shall be itemized and sworn to by the sheriff or chief deputy, and filed with the board of supervisors monthly before the tenth day of each month. Expense accounts to be sworn to and filed as separate claims. A monthly statement of all fees collected from whatever source derived, duly subscribed and sworn to by the sheriff or chief deputy shall be filed with the county treasurer on or before the tenth day of each month. The board of supervisors may allow the sheriff a sum not to exceed thirty-seven and one-half cents per day for feeding each prisoner committed to his custody. Prisoners shall be fed three meals each day. The changes in this subdivision made shall apply to the incumbent and shall be in lieu of all fees, commissions, and mileage.

3. **Recorder.** The recorder, three thousand five hundred dollars per annum; and said recorder may appoint two deputy recorders, one of whom shall receive a salary of one thousand two hundred dollars per annum, and one who shall receive a salary of eight hundred dollars per annum. He may appoint such copyists as may be required for the recording of all papers, notices or documents in his office, except maps or plats, who shall receive for their services the sum of six cents per folio; and for copies of any paper or record six cents per folio. The salaries and compensation of all deputies and copyists herein provided for shall be paid by the county in monthly installments out of the same fund as the recorder is paid. All fees, commissions and perquisites collected by the recorder, from whatever source received, shall be paid into the county treasury. The recorder shall file monthly, on or before the tenth day of each month, with the county auditor, a verified statement showing in detail the fees received by him, and the amounts paid to copyists or other employees in his office, and the names of the persons to whom the same were paid.

4. **Auditor.** The auditor, three thousand dollars per annum. He may appoint one deputy, who shall receive a salary of one thousand five hundred dollars per annum; and one clerk at a salary of seventy-five dollars per month; and one copyist for the months of September and October in each year, at a salary of one hundred dollars per month. The deputy, clerk and copyist herein provided for shall be paid by the county in monthly installments in the same manner and out of the same fund as the auditor is paid.

5. **Treasurer.** The treasurer, three thousand dollars per annum.

6. **Tax collector.** The tax collector, three thousand five hundred dollars per annum. He may appoint one deputy, which office is hereby created, at a salary of one thousand two hundred dollars per annum; and four clerks, for four months in each year, at a salary of fifty dollars per month; he may also appoint one copyist, at a salary of fifty dollars per month for four months, and two indexers, at a salary of sixty dollars each per month for four months in each year, whose duty it shall be to compile an index to the assessment-rolls of the county, and of each sanitary district, said index to be a public record, and to be kept in the office of the tax collector for public use. Said deputy, clerks and indexers to be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid. All fees, perquisites and commissions from whatever source derived, collected by the tax collector, shall be paid into the county treasury, and shall belong to the county.

7. **Assessor.** The assessor, four thousand dollars per annum. In counties of this class there shall be and there hereby is allowed to the assessor the following clerks, deputies and employees, who shall be appointed by the assessor, and shall be paid salaries as follows: One chief deputy assessor at a salary of one hundred dollars per month; one deputy assessor at a salary of seventy-five dollars per month; and such additional field deputy assessors and clerks as the assessor may appoint at a salary not to exceed five dollars per day each; provided, however, that the total amount of salary and compensation paid to such additional deputies and clerks who receive a per diem shall not exceed the sum of three thousand dollars per annum. Said additional deputies and clerks to be paid by the county on the presentation and filing with the board of supervisors of duly verified claims, showing the services rendered, approved by the assessor. The salaries of all deputies, clerks and employees shall be paid by the county, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid. The assessor shall receive no compensation or commissions for the collection of personal property taxes, or compiling the military roll, and all commissions, perquisites and fees from whatever source received, collected by him, shall be paid into the county treasury, and shall belong to the county. The changes herein made are intended to place the office of the assessor on a fixed salary basis, in lieu of the assessor's present compensation, fees and commissions allowed him by law, and shall apply to the incumbent.

8. **District attorney.** The district attorney, three thousand dollars per annum; and said district attorney may appoint a stenographer, which office is hereby created, who shall receive a salary of seventy-five dollars per month; provided, however, that such stenographer shall receive a salary of ninety dollars per month in case such stenographer shall perform all the services required in the county as official reporter in all preliminary hearings in felony cases. Said stenographer shall be paid by the county at the same time and in the same manner and out of the same fund as the district attorney is paid. The district attorney

shall be allowed, in addition to the monthly salary herein allowed, the sum of sixty dollars per month, which shall be in full for all his traveling and other personal expenses in criminal cases and civil actions in which the county is interested, as provided for in subdivision two of section four thousand three hundred seven of the Political Code.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand seven hundred dollars per annum, and actual traveling expenses when visiting the schools of the county; a verified itemized statement of such expenses shall be filed by said superintendent monthly with the board of supervisors.

12. **Surveyor.** The surveyor shall receive two thousand four hundred dollars per annum for all work performed for the county, and, in addition thereto, actual traveling and other necessary expenses incurred in connection with field work. Whenever the surveyor is directed by the board of supervisors or assessor to plat, trace or otherwise prepare maps, plats or block-books for the use of the county assessor or said board, he shall be allowed only the actual cost of preparing the same.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them, and of all fees. In townships having a population of three thousand five hundred or more, one hundred dollars per month. In townships having a population of not less than one thousand five hundred and not more than three thousand five hundred, seventy-five dollars per month. In all townships having a population less than one thousand five hundred, forty dollars per month. All fees collected by justices of the peace shall be paid into the county treasury, and shall belong to the county. The provisions of this subdivision shall apply to the incumbents.

14. **Constables.** Constables shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of three thousand five hundred or more, ninety dollars per month; in townships having a population of not less than one thousand five hundred nor more than three thousand five hundred, eighty-five dollars per month; in all townships having a population of less than one thousand five hundred, forty-five dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions; and he shall also be allowed his actual and necessary expenses incurred in executing any warrant outside of his county issued by a magistrate or justice of his county. Constables shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to the county jail, which said expenses shall be audited

and allowed by the board of supervisors, and paid out of the county treasury.

15. **Board of education.** Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty-five cents per mile one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board, and of said secretary, shall be paid out of the same fund as the salary of the superintendent of schools is paid. Claims for such services and mileage shall be presented to the board of supervisors, and shall be allowed at the rate above named, in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred seventy of this code.

16. **Supervisors.** Each supervisor, one thousand five hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat; provided, that when a supervisor is also road commissioner he shall receive in addition to the twenty cents per mile allowed to him by law as such road commissioner his actual traveling expenses, the total mileage and expenses not in any one year to exceed the sum of three hundred dollars. The changes as to salary made in this subdivision shall not apply to incumbents.

17. **Jurors.** In counties of this class, grand jurors and trial jurors in the superior court shall each receive for each day's attendance, per day, the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat, in going only, per mile, the sum of twenty cents; such mileage to be allowed but once during each session such jurors are required to attend.

18. **Justices of the peace.** Justices of the peace shall be allowed for their office rent and expenses the sum of fifteen dollars each per month in addition to the monthly salaries herein allowed. Each justice of the peace must pay into the county treasury monthly, all fees and fines collected by him; and he must keep a book open for the inspection of the public, during office hours, in which must be entered at once and in detail the amount of all fees and fines collected by him. The auditor must withold warrants for salary and office rent until a sworn statement has been filed with him, of all cases tried, and fees and fines collected; and the same are paid into the county treasury. No justice of the peace shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undecided, that has been submitted to him for decision for a period of thirty days; said affidavit to be filed with the auditor of the county.

19. **Jail matron.** In counties of this class there shall be appointed by the sheriff a suitable woman as jail matron, who shall have care of female prisoners confined in the county jail. She shall be paid a salary

of fifty dollars per month, to be paid by the county in monthly installments at the same time, in the same manner, and out of the same fund that the salary of the sheriff is paid.

20. **Incumbents.** The changes made in this act shall apply to the incumbents unless otherwise herein provided. [Amendment approved May 28, 1917; Stats. 1917, p. 1131.]

§ 4250. **Counties of twenty-first class, salaries of officers.** In counties of the twenty-first class the county and township officers shall receive, as full compensation for the services required of them by law or by virtue of their officers, the following fees and salaries:

1. **County clerk.** County clerk, three thousand five hundred dollars per annum, and shall receive in addition the sum of six hundred dollars a year for every year that an election is held throughout the state of California; he also shall receive in addition the sum of ten cents per name for each voter registered in the county of Santa Cruz, which shall be in full for all services required in registering voters and making up the great register, and the performing of all other acts incident to or pertaining to elections; provided, that in counties of this class there shall be and is hereby allowed to the county clerk one copyist and index clerk who shall be appointed by the county clerk and who shall be paid a salary of nine hundred dollars per annum, and whose salary shall be paid in monthly installments in the same manner and out of the same fund as the salary of the county clerk is paid.

2. **Sheriff.** Sheriff, three thousand dollars per annum; provided, that there shall be and there is hereby allowed to said sheriff an under-sheriff who shall receive a salary of one thousand two hundred dollars per annum and one deputy sheriff, who shall also act as night jailer, at a salary of five hundred dollars per annum; the said under-sheriff and the said deputy to be appointed by the sheriff and the salaries of which shall be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid; and provided, further, that in addition thereto, the sheriff shall receive and retain for his own and benefit all of the fees, per diem, mileage and expenses which are now or which may hereafter be allowed by law; and the fees and commissions for the service of all papers whatsoever issued by any court in the state outside of Santa Cruz county.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum; provided, however, that in counties of this class the recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents in his office not exceeding seven cents per folio for each paper or document so recorded; provided, further, that said recorder shall file monthly, with the county auditor, a verified statement showing in detail the persons and the amounts paid to each for such recording.

4. **Auditor.** The auditor, two thousand seven hundred fifty dollars per annum.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand seven hundred fifty dollars per annum; provided, that in lieu of the clerk now allowed this office for six months during each year, the said tax collector is hereby allowed one deputy for the entire year who shall receive a salary of nine hundred dollars per annum; said salary to be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid.

7. **Assessor.** The assessor, three thousand dollars per annum; provided, that in addition the assessor shall be allowed one office deputy at nine hundred dollars per annum; one draftsman at one thousand two hundred dollars per annum; one deputy for five months in the year at one hundred dollars per month; one copyist for five months in the year at forty dollars per month; one deputy for five months in the year at one hundred dollars per month; one deputy for three months in the year at one hundred dollars per month, and one deputy for four months in the year at one hundred dollars per month; and provided further, that all of said deputies, clerks and draftsmen, herein provided for, shall be appointed by the assessor and shall be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the assessor is paid.

8. **District attorney.** The district attorney, two thousand dollars per annum; provided, that in counties of this class, there shall be and there is hereby allowed to the district attorney one deputy, to be appointed by the district attorney, and who shall be regularly admitted to practice before the courts of the state of California. Said deputy shall receive a salary of six hundred dollars per annum, which salary shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid. The district attorney shall be allowed in addition to the monthly salary herein allowed, the sum of sixty dollars per month, which shall be in full for all his traveling and other personal expenses in criminal cases and civil cases in which the county is interested, as provided for in subdivision two of section four thousand three hundred seven of the Political Code. Payment of said sum of sixty dollars per month shall be in full also for all office stenographic services required by said district attorney in criminal actions and in civil actions and other matters in which the county is interested.

9. **Coroner.** The coroner, such fees as are nor or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, that in counties of this class there shall be and there is hereby allowed to the superintendent of schools, a clerk which office is hereby created, at a salary

of fifty dollars per month, and who shall be appointed by the superintendent of schools. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

12. **Surveyor.** The county surveyor for all services required of him as county surveyor, and also for all services which may be required of him, as a road engineer, shall receive two thousand four hundred dollars per annum, and necessary cost of transportation to and from, and necessary expenses in the field, while engaged on public work, and he is hereby required to devote all his time to the county work.

13. **Board of supervisors.** Board of supervisors, each member of the board of supervisors one hundred dollars per month and no mileage; provided, that whenever it shall be necessary for any member of the board of supervisors to leave the county of Santa Cruz for the purpose of performing any of his duties, that then and in that event, said supervisor shall be allowed his actual expenses.

14. **Population of townships.** For the purpose of regulating the compensation of justices of the peace and constables, judicial townships in this class of counties are hereby classified according to their population as follows: Townships containing a population of ten thousand or more shall belong to and be known as townships of the first class; townships containing a population of less than ten thousand and more than six thousand shall belong to and be known as townships of the second class; townships containing a population of less than six thousand and more than four thousand shall belong to and be known as townships of the third class; townships containing a population of less than four thousand and more than two thousand shall belong to and be known as townships of the fourth class; townships containing a population of less than two thousand shall belong to and be known as townships of the fifth class; the population of the several judicial townships shall be determined for the purpose of this and the succeeding subdivisions by multiplying by three the total number of names registered as voters in such townships as shown by the complete index to great register as compiled and certified by the county clerk of said class of counties in October, A. D. 1912.

15. **Justices of the peace.** From and after January 4, 1915, justices of the peace of townships in said county shall receive the following salaries, which shall be paid monthly in the same manner as the salaries of the county officers are paid, out of the salary fund of the county, which shall be in full for all services rendered by them in criminal and civil cases; provided, however, that if two justices of the peace shall be elected and qualify in any one township, then the said justices shall each receive one-half of the salaries therein provided for, to wit: In townships of the first class, two hundred dollars per month; in townships of the second class, one hundred twenty-five dollars per month; in townships of the third class, fifty dollars per month; in townships of the fourth class, thirty-five dollars per month; in townships of the fifth class, twenty-five dollars per month. All fees fixed and provided by

law and collected by any justices of the peace shall be paid into the county treasury at the end of each month. Justices of the peace in the first and second classes shall be allowed their actual office rent, not to exceed the sum of fifteen dollars each, for any one month.

Constables. Constables shall receive the following fees and salaries which shall be paid monthly and in the same manner as the salaries of the county officers are paid, out of the salary fund of the county, which shall be in full for all services rendered by them in criminal cases, to wit: In townships of the first class, seventy-five dollars per month; in townships of the second class, seventy-five dollars per month; in townships of the third class, forty dollars per month; in townships of the fourth class, twenty-five dollars per month; in townships of the fifth class, fifteen dollars per month; provided, that in addition to the salaries herein allowed, each constable shall be paid out of the general fund of the county for traveling expenses outside of his own township for the service of a warrant of arrest, or ony other process, in a criminal case (where said service is in fact made), his actual expenses each way; for each mile traveled outside of his county, both going to and returning from the place of arrest or other service of process, his actual expenses each way; for transporting prisoners to the county jail a constable shall be allowed his actual expenses each way, which said actual expenses are hereby defined to be the actual cost of transportation of said constable or his prisoner or prisoners. In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for service rendered by him in civil cases.

16. **Reporter.** The official reporter of the superior court shall receive the fees allowed by law.

17. **Probation officer.** The probation officer of this county shall receive, from and after January 4, 1917, the sum of seven hundred eighty dollars per annum.

18. **Salaries full compensation. Exception.** In fixing the compensation of the above-named officers in the amounts hereinabove specified, it is hereby expressly provided that the salaries and fees above provided shall be in full compensation of all services of every kind and description rendered by the officers named herein, either as officers or ex officio officers, their deputies and assistants; and it is hereby further expressly provided, that all of the fees, commissions, per diem and expenses provided for in section four thousand two hundred ninety of the Political Code of the state of California, and all other moneys coming into the hands of the county and township officers, no matter from what source derived or received, shall belong to and be the property of the county of Santa Cruz and shall be paid into the county treasury by said officer at the same time and in the same manner that other moneys are required by law to be paid into the county treasury by him save and except, however, that the provisions of this subdivision shall not apply to the offices of sheriff, recorder, district attorney and superintendent of schools, and they are expressly exempted from the provisions of this

subdivision, and as to said offices herein last named, to wit: sheriff, recorder, district attorney and superintendent of schools, they shall receive the salaries, fees and commissions provided for by law, as provided for in subdivisions two, three, eight and eleven of this act. [Amendment approved April 16, 1917; Stats. 1917, p. 133.]

§ 4251. Counties of twenty-second class, salaries of officers. In counties of the twenty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand five hundred dollars per annum, and when a new register of voters is required by law to be made, he shall receive in addition, fifteen cents per name for each voter registered, which shall be in full for all services required in registering voters and making the great register; provided, that in counties of this class there shall be and is hereby allowed to the county clerk, one deputy, who shall be appointed by said county clerk, who shall be paid a salary of one hundred twenty-five dollars per month, and one deputy who shall be appointed by said county clerk, who shall be paid a salary of seventy-five dollars per month, said salaries of said deputies to be paid by said county monthly at the same time and in the same manner and out of the same fund, as the salary of the county clerk is paid.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum; and also all fees for service of papers in actions arising out of his county; provided, that in counties of this class there shall be and is hereby allowed to the sheriff a deputy, who shall be appointed by said sheriff, who shall be paid a salary of one hundred twenty-five dollars per month, said salary to be paid by said county monthly at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid.

3. **Recorder.** The recorder, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder, one deputy, who shall be appointed by said recorder, who shall be paid a salary of one hundred dollars per month, and three copyists who shall be appointed by said recorder, who shall be paid a salary of seventy-five dollars a month each, said salaries of said deputies and of said copyist to be paid by said county monthly at the same time and in the same manner and out of the same fund, as the salary of the recorder is paid.

4. **Auditor.** The auditor, three thousand dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the auditor a deputy who shall be appointed by said auditor, who shall be paid a salary, of one hundred twenty-five dollars per month, said salary of said deputy to be paid by said county monthly at the same time and in the same manner and out of the same fund, as the salary of the auditor is paid; and provided, further, that in counties of this class there shall be and is hereby allowed to the auditor a deputy who shall be appointed by said auditor for the period of time embraced between the first day of September and the first day of October in each fiscal

year, who shall be paid a salary of seventy-five dollars per month, said salary to be paid by said county monthly during the period of time said deputy shall be employed at the same time and in the same manner and out of the same fund as the salary of the auditor is paid.

5. **Treasurer.** The treasurer, three thousand dollars per annum.

6. **Tax collector.** The tax collector, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the tax collector, a deputy, who shall be appointed by said tax collector, who shall be paid a salary of one hundred dollars per month, said salary to be paid by said county monthly at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid; provided, further, that in counties of this class there shall be and is hereby allowed to the tax collector a deputy for the period of time embraced between the first day of July and the thirty-first of December in each fiscal year, and also for the period of time embraced between the first day of April and the first day of June in each fiscal year. Said deputy shall be appointed by said tax collector, and shall be paid a salary of seventy-five dollars per month during the period of time said deputy shall be employed, to be paid by said county monthly at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid; provided, further, that in counties of this class there shall be and is hereby allowed to the tax collector a copyist for the period of time embraced between the fifteenth day of August and the fifteenth day of December in each year. Said copyist shall be appointed by said tax collector, and shall be paid a salary of fifty dollars per month during the period of time said copyist shall be employed, to be paid by said county monthly at the same time and in the same manner and out of the same fund as the salary of the collector is paid.

7. **Assessor.** The assessor, four thousand dollars per annum, and also such fees and commissions as are allowed by law; provided, that in counties of this class there shall be and is hereby allowed to the assessor, a deputy, who shall be appointed by said assessor, who shall be paid a salary of one hundred twenty-five dollars per month, to be paid by said county monthly at the same time and in the same manner and out of the same fund, as the salary of the assessor is paid; and provided, further, that in counties of this class there shall be and is hereby allowed to the assessor, a deputy who shall be appointed by said assessor, who shall be paid a salary of one hundred dollars per month, to be paid by said county monthly, at the same time, and in the same manner and out of the same fund as the salary of the assessor is paid; and provided, further, that in counties of this class the board of supervisors is hereby authorized and empowered to furnish the assessor with a copyist for whatever time said board of supervisors may deem necessary during each year. Said copyist shall be paid a salary of seventy-five dollars a month to be paid by said county monthly, at the same time, and in the same manner and out of the same fund as the salary of said assessor is paid.

8. **District attorney.** The district attorney three thousand dollars per annum; provided, that in counties of this class, the district attorney

may appoint a deputy which office of deputy district attorney is hereby created; said deputy to be employed at such times and to receive such salary not to exceed the sum of one hundred fifty dollars per month as the board of supervisors may fix by resolution; provided, further, that said district attorney may appoint a stenographer at a salary of seventy-five dollars per month. Said deputy and said stenographer shall be paid at the same time and out of the same fund as other county officers are paid.

9. **Superintendent of schools.** The superintendent of schools, two thousand four hundred dollars per annum and actual traveling expenses, when visiting schools of his county; provided, that in counties of this class there shall be and is hereby allowed to the superintendent of schools, a deputy who shall be appointed by said superintendent of schools, and who shall be paid a salary of one hundred dollars per month, to be paid by said county monthly, at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

10. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

11. **Public administrator.** The public administrator such fees as are now or may be hereafter allowed by law.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Population of townships. Justices of the peace.** For the purpose of fixing the compensation of justices of the peace according to their duties, townships in counties of this class are hereby classified according to their population as follows: Townships having a population of ten thousand or more shall belong to and be known as townships of the first class; townships having a population of less than ten thousand and more than five thousand shall belong to and be known as townships of the second class; townships having a population of less than five thousand and more than ten thousand shall belong to and be known as townships of the third class; townships having a population of less than one thousand and more than nine hundred shall belong to and be known as townships of the fourth class; townships having a population of less than nine hundred shall belong to and be known as townships of the fifth class. The population of the several townships shall be determined by the board of supervisors upon the enactment of this act and also at the time of the formation of any new township or townships for the purpose of this and the succeeding subdivisions by the last federal census taken during the year 1910. Justices of the peace shall receive the following salaries:

In townships of the first class the sum of one hundred fifty dollars per month;

In townships of the second class the sum of one hundred twenty-five dollars per month;

In townships of the third class the sum of thirty dollars per month;

In townships of the fourth class the sum of ten dollars per month;

In townships of the fifth class the sum of five dollars per month;

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officers are paid and shall be compensation in full for all services rendered. All fees received by justices of the peace shall be paid into the county treasury every month. Justices of the peace in the first, and second classes shall be allowed their actual office rent not to exceed the sum of fifteen dollars ($15.00) per month. Also their civil and criminal dockets and legal blanks.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law, and in addition thereto three dollars per day for each day's actual attendance in court during a jury trial therein or preliminary examination for felony; provided, that no constable shall receive more than three dollars for any one day's attendance on any court.

15. **Supervisors.** Each member of the board of supervisors, fifty dollars per month and mileage at the rate of ten cents per mile for traveling to and from his residence to the county seat; and also mileage for his services as road commissioner at the rate of twenty cents per mile one way, for all distances actually traveled in the discharge of his duties as such road commissioner; provided, that such mileage as road commissioner shall not in any one year exceed the sum of three hundred dollars.

16. **Board of education.** Each member of the board of education including the secretary, five dollars per day when the board is in session, and ten cents per mile for traveling to and from his or her residence to the county seat at each session, unless otherwise provided for by law. [Amendment approved May 28, 1917; Stats. 1917, p. 1003.]

§ 4252. **Counties of twenty-third class, salaries of officers.** In counties of the twenty-third class, the county and township officers shall receive as compensation for services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum; provided, that he shall have power to appoint one deputy at a salary of one thousand five hundred dollars per annum, payable at the same time and in the same manner as that of other county officers; and further provided, that he shall have power to appoint one deputy at a salary of one thousand two hundred dollars per annum, payable at the same time and in the same manner as that of other county officers; and further provided, that in every even numbered year he shall have power to appoint one deputy at a salary of nine hundred dollars per annum, payable at the same time and in the same manner as that of other county officers; and further provided, that he shall receive six hundred dollars per annum for compiling a great register and for services performed in preparation for any and all elections, which shall be in full for all services required in registering voters and for all services performed in preparation for elections. The county clerk shall also receive and retain, for his own use and benefit, all fees and commissions which now are, or which may hereafter be allowed by law.

2. **Sheriff.** The sheriff, three thousand five hundred dollars per annum; provided, that he shall have the power to appoint two deputies,

which offices are hereby created, at a salary of one thousand five hundred dollars each per annum, payable at the same time and in the same manner as that of other county officers. The sheriff shall also receive and retain in all civil cases for his own use and benefit, fees, commissions and mileage which now are or which may hereafter be allowed by law; and also all expenses incurred in the pursuit of criminals or transacting any criminal business. The sheriff shall also receive and retain for his own use and benefit mileage and fees for the service of process or papers issued by any court in the state.

3. **Recorder. In effect when.** The recorder, two thousand four hundred dollars per annum; provided, that he shall have the power to appoint one deputy at a salary of one thousand two hundred dollars per annum, and one deputy at a salary of one thousand eighty dollars per annum, payable at the same time and in the same manner as that of other county officers; provided, however, that the foregoing provisions of this subdivision of this section shall not be in force, or go into effect, until the expiration of the term of office of the incumbent; and until then, the provisions of subdivision three of section four thousand two hundred fifty-two of the Political Code, approved June 1, 1915, shall continue in force.

4. **Auditor.** The county auditor, two thousand four hundred dollars; provided, that he shall have the power to appoint one deputy at a salary of one thousand two hundred dollars per annum, and one deputy at a salary of nine hundred dollars per annum; and provided, that in counties of this class there shall be and hereby is allowed to the county auditor, such additional assistants as the auditor may require, during the months of July, September and December of each year, and whose compensation in the aggregate shall not exceed two hundred dollars in any one year.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum; provided, that he shall have power to appoint one deputy, which office is hereby created, at a salary of one thousand eighty dollars per annum, payable at the same time and in the same manner as that of other county officers. The treasurer shall receive and retain for his own use the fees and commissions now or hereafter to be allowed him by law.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum; provided, he shall have power to appoint one deputy, which office is hereby created, at a salary of one thousand eighty dollars per annum, payable at the same time and in the same manner as that of other county officers; and provided, further, he shall have power to appoint one deputy during the months of August, September, October, November and December of each year, which office is hereby created, at a salary of seventy-five dollars per month, payable at the same time and in the same manner as that of other county officers.

7. **Assessor.** The assessor, four thousand two hundred dollars per annum; provided, that he shall have power to appoint one deputy, which office is hereby created, at a salary of one thousand eighty dollars per annum, payable at the same time and in the same manner as that of other county officers, and said assessor shall also receive the commis

sions on the amount of personal property tax as is provided in and by section four thousand two hundred ninety of the Political Code and five cents per name for military roll.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum, and his actual traveling expenses when prosecuting criminals within the county; provided, that he shall have power to appoint two deputies, which offices are hereby created, one of said deputies to receive a salary of one thousand two hundred dollars per annum, and the other deputy to receive a salary of nine hundred dollars per annum; the salary of each of said deputies to be payable in the same manner and at the same time as that of other county officers.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand four hundred dollars per annum, and his actual traveling expenses when visiting the schools of the county; provided, that he shall have the power to appoint one deputy, which office is hereby created, at a salary of one thousand five hundred dollars per annum, payable at the same time and in the same manner as that of other county officers; and provided, that he shall not receive in any one year of his term of office, compensation for his services as secretary of the county board of education, in excess of two hundred dollars.

12. **Surveyor.** The surveyor, one thousand eight hundred dollars per annum, for all work performed for the county, and in addition thereto his actual necessary traveling and other expenses incurred in connection with field work, and cost of preparing maps, plats, block-books and tracings, for the assessor when directed by him.

13. **Justices of the peace.** The justices of the peace shall receive the following monthly salaries, to be paid each month as the salaries of the county officers are paid, which shall be in full for all services rendered by them: (1) in townships having a population of five thousand or more, one hundred thirty dollars per month; provided, that where there is now or may be hereafter created in such township more than one justice of the peace, the monthly salary of said two justices shall each be one hundred dollars per month; (2) in townships having a population of two thousand five hundred and less than five thousand, sixty-five dollars per month; (3) in townships having a population of one thousand five hundred and less than two thousand five hundred, sixty dollars per month; (4) in townships having a population of one thousand and less than one thousand five hundred, forty-five dollars per month; (5) in townships having a population of five hundred and less than one thousand, thirty-five dollars per month; (6) and in townships having a population of less than five hundred, thirty dollars per month. Each justice must pay into the county treasury once a month all fees and fines collected by him.

14. **Constables.** The constable shall receive the following salaries to be paid each month as salaries of the county officers are paid, which

shall be in full for all services rendered by them in criminal cases and in all other criminal matters: (1) in townships having a population of five thousand or more, seventy-five dollars per month; (2) in townships having a population of two thousand five hundred, and less than five thousand, fifty dollars per month; (3) in townships having a population of one thousand five hundred or less than two thousand five hundred, forty-five dollars per month; (4) in townships having a population of one thousand and less than one thousand five hundred, thirty-five dollars per month; (5) in townships having a population of five hundred and less than one thousand, thirty dollars per month; (6) in townships having a population of less than five hundred, twenty dollars per month; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for necessary traveling expenses in his own district, for the service of a warrant of arrest or any other process in a criminal case, or other criminal matters, when such service is in fact made, both going and returning, ten cents per mile; for each mile traveled out of his county, both going and returning, from the place of arrest in the service of process, five cents per mile; and for transporting persons to the county jail, ten cents per mile each way. In addition to the monthly salary allowed him herein each constable shall receive for his own use, the fees in civil cases, which now or may hereafter be allowed by law.

15. **Supervisors.** The supervisors, each, the sum of one thousand two hundred dollars per annum, and twenty cents per mile for all distances actually traveled, in the performance of his duty as road commissioner, not to exceed two hundred dollars per annum, together with mileage at the rate of twenty cents per mile, in going only, from his place of residence to the county seat at each session of the board.

16. **Phonographic reporter.** In counties of this class the official phonographic reporter of the superior court shall receive as compensation for his services the fees and compensation now or hereafter provided by law, and in addition thereto shall receive five dollars per day when not actually engaged in reporting in said court, but when in attendance on court in compliance with and as provided by section two hundred seventy-one of the Code of Civil Procedure, the said per diem of five dollars to be paid in the same manner as provided in criminal cases.

17. **Population of townships.** For the purpose of subdivisions thirteen and fourteen of this section, the population of the several townships shall be ascertained and determined by the board of supervisors by multiplying by three and one-half, the vote cast for presidential electors in each township at the next preceding election therefor. [Amendment approved April 6, 1917; Stats. 1917, p. 66.]

§ 4252a. **Counties of twenty-third class, salaries of jurors.** In counties of the twenty-third class, grand jurors and trial jurors in the superior court shall receive for each day's attendance, three dollars, and for every mile actually traveled in attending court as such juror, in going only fifteen cents. [New section added April 6, 1917; Stats. 1917, p. 70.]

§ 4254. **Counties of twenty-fifth class, salaries of officers.** In counties of the twenty-fifth class, the county officers shall receive as compensa-

tion for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand seven hundred dollars per annum, and registration fees; all other fees of the clerk's office to be paid into the county treasury; provided, that in counties of this class there shall be a chief deputy clerk who shall be paid a salary of one thousand seven hundred fifty dollars per annum in equal monthly installments, said chief deputy, in addition to his other duties, to prepare all deeds for the county without extra cost to the county; also, in addition to the deputy clerk authorized by the special act of the legislature at a salary of one thousand two hundred dollars per annum, one deputy clerk who shall be paid a salary of one thousand two hundred dollars per annum, to be paid in equal monthly installments; also one deputy clerk who shall be paid nine hundred sixty dollars per annum, to be paid in equal monthly installments; and also a stenographer at a salary of fifty dollars per month for one month preceding an election where a register of voters is required; the salaries of said deputy clerks to be paid at the same time, and in the same manner, and out of the same fund as the salary of the county clerk, the clerk also to receive ten cents a name for each person registered, which shall be allowed by the board of supervisors of the county. He shall also be allowed not to exceed ten deputies for the purpose of registering electors, who shall be paid not to exceed five cents for each elector registered; that any of such deputies as are required to work in the office shall receive not to exceed two dollars and fifty cents per day for the time so employed. The change in compensation hereby made is not an increase in compensation of a county officer and shall become operative as soon as this act takes effect as to the deputy clerks and the stenographer and their salaries, but shall not become operative as to the county clerk and his salary and fees until the first Monday after the first day of January, 1919.

2. **Sheriff.** The sheriff, three thousand dollars per annum and mileage for the service of papers or process coming from courts other than those of his own county; provided, that in counties of this class there shall be one chief deputy sheriff at one thousand three hundred twenty dollars per annum, to be paid in equal monthly installments; one deputy sheriff at one thousand three hundred twenty dollars per annum, who shall act as jailer of the county jail, and one deputy sheriff at one thousand two hundred dollars per annum, said deputy sheriff to be in addition to the deputy sheriff authorized by special act of the legislature at a salary of one thousand two hundred dollars per annum. The change in compensation hereby made is not an increase in the compensation of a county officer and shall become operative as soon as this act takes effect.

3. **Recorder.** The recorder, two thousand two hundred dollars per annum; and said recorder shall collect and pay into the county treasury for the use and benefit of the county the fees required by law to be collected; provided, that in counties of this class there shall be one chief deputy recorder who shall receive a salary of one thousand five hundred dollars per annum, one indexing deputy recorder who shall re-

ceive a salary of one thousand two hundred dollars per annum, and two copyists who shall each receive a salary of nine hundred dollars per annum, the salaries of said recorder, deputies and copyists to be paid in equal monthly installments by the county. This section shall not go into effect until the first Monday after the first day of January, 1919.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be one deputy auditor who shall receive a salary of one thousand five hundred dollars per annum, and one deputy auditor who shall receive a salary of nine hundred dollars per annum. This section shall not go into effect until the first Monday after the first day of January, 1919.

5. **Treasurer.** The treasurer, one thousand eight hundred dollars per annum and the fees and commissions now or hereafter allowed by law.

6. **Tax collector.** The tax collector, one thousand two hundred dollars per annum, and the fees and commissions now or hereafter allowed by law; provided, that in counties of this class, there shall be one deputy tax collector who shall receive a salary of one thousand eight hundred dollars per annum, to be paid in equal monthly installments at the same time and out of the same fund as the salary of the tax collector; also provided, that in counties of this class there shall be one deputy tax collector for not exceeding four months in each year at a salary of seventy-five dollars per month, also one deputy tax collector for not exceeding five months in each year, at seventy-five dollars per annum, said salaries to be paid by the county out of the same fund as the tax collector's.

7. **Assessor.** The assessor, two thousand six hundred dollars per annum, and the fees and commissions now or hereafter allowed by law; provided, that in counties of this class there shall be allowed two deputies who shall be appointed by the assessor, one to receive a salary of one thousand five hundred dollars per annum and one to receive a salary of one thousand three hundred twenty dollars per annum in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid. It shall be the duty of said deputies, among other things, to make and correct all necessary plats, maps, and block-books for the assessor's office; provided, also, that for each name upon the assessment-roll, representing one or more statements in excess of four thousand five hundred, the assessor shall receive fifty cents. The change in compensation hereby made is not an increase in compensation of a county officer and shall become operative as soon as this act takes effect.

8. **District attorney.** The district attorney, two thousand six hundred dollars per annum; provided, that in counties of this class there shall be one deputy district attorney at a salary of one thousand dollars per annum, to be paid in equal monthly installments by the county.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum. He shall also be allowed his actual traveling expenses when visiting the schools of the county, which expenses shall not exceed the sum of five hundred dollars in any one year. He shall receive nothing for his services as a member of the board of education. The superintendent of schools shall be allowed one deputy, to be appointed by the principal, which said deputy shall be allowed a salary of one thousand twenty dollars per annum, to be paid at the same time, in the same manner, and out of the same fund as the salary of the superintendent of schools is paid.

12. **Surveyor.** The surveyor shall receive three thousand dollars per annum, and in addition thereto, all actual traveling and other necessary expenses incurred in connection with field work. He shall have one deputy county surveyor at a salary of one thousand eight hundred dollars per annum, and one draftsman at a salary of one thousand five hundred dollars per annum, said deputy and draftsman to be appointed by the principal and paid at the same time and in the same manner as the county surveyor. It shall be the duty of the surveyor among other things, to make all necessary county and road maps, and all necessary plans and specifications for bridge work and county buildings; provided, however, that when in the judgment of the board of supervisors of the county, it is necessary to employ additional assistance for the performance of said work, other than with regard to roads, the board of supervisors may allow the necessary actual expense thereof. Also to prepare all maps or plats necessary to accompany reports made by him on road work, and prepare and keep all the necessary and proper records in his office; provided, he shall receive nothing for preparing any map or plat necessary to accompany reports made by him on road work, nor for preparing and keeping the proper records in his office. He shall at all times be subject to the orders of the board of supervisors. The office of the county surveyor shall be kept open for the accommodation of the public, with the surveyor, a deputy, or a competent clerk in charge from nine o'clock A. M. until five o'clock P. M., the same as other county offices. The county surveyor shall be allowed the services of a competent clerk, to be appointed by the principal, and receive a salary of sixty dollars per month, to be paid out of the same fund, at the same time and in the same manner as other county officers are paid. Such compensation and salaries as above set forth shall be in full for all services as such county surveyor, and all fees and compensation received or collected by him for services other than for the county, shall be paid into the county treasury.

13. **Classification of townships.** For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population, as shown by the total number of registered voters, in each township, at the next preceding general election, prior to the fixing of the classification, the said population to be determined by multiplying the said total number of registered voters by three; townships having a population of fifteen thousand and more shall belong to and be known as townships of the first class; townships having a population of eight thousand and

less than fifteen thousand shall belong to and be known as townships of the second class; townships having a population of three thousand and less than eight thousand shall belong to and be known as townships of the third class; townships having a population of one thousand and less than three thousand shall belong to and be known as townships of the fourth class; townships having a population of less than one thousand shall belong to and be known as townships of the fifth class; provided, that the board of supervisors of the county may, prior to any general election, consolidate two or more of such townships into one.

13a. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month as county officers are paid, which shall be in full compensation for all services rendered by them, to wit: In townships of the first class, one hundred forty dollars per month; in townships of the second class, eighty dollars per month; in townships of the third class, fifty-five dollars per month; in townships of the fourth class, thirty dollars per month; in townships of the fifth class, twenty dollars per month. Each justice must pay into the county treasury once a month all fees and fines collected by him. Justices of the peace of the first class are required to keep their offices open from nine o'clock A. M. until five o'clock P. M. In townships of the first, second and third classes the board of supervisors shall furnish adequate office room, in all other townships all justices shall be allowed not to exceed five dollars per month for office rent. These salaries shall also apply to incumbents.

14. **Constables.** Constables shall receive the following monthly salaries, to be paid each month as the county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases, to wit: In townships of the first class, one hundred twenty-five dollars; in townships of the second class, one hundred dollars; in townships of the third class, eighty dollars; in townships of the fourth class, sixty dollars; in townships of the fifth class, forty dollars. In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use, such fees as are now allowed or may hereafter be allowed by law, for all services rendered by him in civil actions, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which expenses shall be audited and allowed by the board of supervisors, and paid out of the county treasury; provided, further, that when a constable is required to go out of his own county to serve a warrant of arrest or any other papers in a criminal case, he shall be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which expenses shall be audited by the board of supervisors. These salaries shall also apply to incumbents.

15. **Supervisors.** Supervisors shall receive the sum of seven hundred twenty dollars per annum, each, and mileage at the rate of ten cents per mile for each mile traveled in coming to and from the meetings of the board; provided, that only one mileage at any one session of the

board shall be allowed. They shall act as road commissioners in their respective districts, and shall therefor receive for their services as such road commissioners the sum of three hundred dollars per annum, and mileage at the rate of fifteen cents per mile each, one way, for all distances actually traveled by them in the discharging of their duties as such road commissioners; provided, that said expense as road commissioners shall not exceed the sum of seven hundred eighty dollars per annum for any of the commissioners. The change in compensation hereby made is not an increase in compensation of a county officer and shall become operative as soon as this act takes effect.

15a. **County librarian.** There is created for counties of the twenty-fifth class a county librarian, who shall be appointed by the board of supervisors for a term of four years and shall receive a salary of one thousand eight hundred dollars per annum, to be paid at the time and in the manner as other county officers.

16. **Witnesses.** Witnesses in criminal cases and in cases of dependent and delinquent persons shall receive two dollars per day, and ten cents per mile for each mile actually traveled, one way only. The court shall make an order directing the auditor to draw his warrant on the county treasury for the amount due, and the treasurer shall pay the same. The court may disallow any fee to a witness unnecessarily subpoenaed.

17. **Jurors.** Jurors in a county of this class, both grand and petty jurors in the superior court, shall each receive for each day's attendance, per day, the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat in going only, the sum of twenty cents per mile, such mileage to be allowed but once during each session such jurors are required to attend. The court shall make an order directing the auditor to draw his warrant on the county treasury for the amount due, and the treasurer shall pay the same.

This act to go into effect immediately, and apply to all present incumbents, except as hereinbefore provided and excepted. [Amendment approved June 1, 1917; Stats. 1917, p. 1574. In effect, see §§ 1, 3, 4, 17.]

§ 4255. **Counties of twenty-sixth class, salaries of officers.** In counties of the twenty-sixth class, the county and township officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum, and five hundred dollars additional per annum for compiling the great register of the county. In counties of this class the county clerk may appoint a deputy county clerk, which office of deputy county clerk is hereby created, and said deputy county clerk shall receive as compensation for all services performed as such, the sum of nine hundred dollars per annum, to be paid out of the county treasury in equal monthly installments, at the time, in the same manner and out of the same fund as salaries of county officers are paid. The county clerk

may appoint such number of deputies as may be necessary for the convenient registration of electors in their respective precincts or townships, and each such registration deputy shall receive as compensation for all services performed as such the sum of ten cents per name for each elector registered by him, to be paid monthly, at the same time, in the same manner and out of the same fund as salaries of county officers are paid; provided, that each such registration deputy, when so appointed, shall, prior to the drawing of any warrant for such compensation, first file with the auditor a statement, verified by the oath of such registration deputy, and approved in writing by the county clerk, showing the number of electors so registered by him during the period covered by such statement. The county clerk shall also receive and retain for his own use such fees as are now or may hereafter be allowed by law for issuing hunting and fishing licenses, for the naturalization of persons desiring to become citizens and such other fees of similar character as are now or may hereafter be allowed by law for the performance of any service rendered by the county clerk other than in his official character as county clerk. All other fees or commissions shall be collected by the county clerk and shall be paid by him into the county treasury and no part thereof shall be retained by him as a part of his compensation.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum. In counties of this class the sheriff may appoint an undersheriff, which office of undersheriff is hereby created, and said undersheriff shall receive as compensation for all services performed as such the sum of one thousand five hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner and out of the same fund as salaries of county officers are paid. In counties of this class the sheriff shall be allowed such sum as the board of supervisors shall fix for the board of prisoners confined in the county jail, and his actual necessary expenses for pursuing, searching for and arresting criminals and persons charged with being insane, and for conveying prisoners and persons charged with being insane to court and to prison or other place of confinement or detention and to and from state prisons, state hospitals and other institutions, and his actual necessary expenses for keeping, preserving and selling property seized, held or sold on attachment, execution or other process, and for the service and posting of all process papers and notices required by law to be served or posted by the sheriff. All such actual necessary expenses and said sum for the board of prisoners shall be a proper legal charge against the county and shall be allowed, audited and paid out of the county treasury in the same manner as other county charges are allowed, audited and paid. The sheriff shall collect from the state all per diem and expenses incurred in conveying prisoners and persons adjudged insane, to and from state prisons, state hospitals and other institutions and pay the same, when so collected, into the county treasury, and the same and all other fees, commissions and compensations other than as hereinabove provided, which, in other counties of other classes, are allowed by law to the sheriff, as a part of his compensation shall be paid into the county treasury, and no part thereof shall be retained by him as a part of his compensation.

3. **Recorder.** The recorder, two thousand dollars per annum; provided, that in counties of this class the recorder may appoint a deputy, which office is hereby created, and said deputy county recorder shall receive as compensation for all services performed as such the sum of seven hundred twenty dollars per annum, payable out of the county treasury in equal monthly installments, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. The recorder may employ as many copyists as may be required, who shall receive as compensation, the sum of five cents per folio for recording any instrument or notice, except maps or plats, and for making copies of any records or papers, five cents per folio. The salaries of such copyists shall be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid; provided, that the recorder shall file monthly with the auditor a verified statement showing in detail the persons employed as copyists and the amount due to each for such copying. All fees, commissions or other compensation allowed by law to the recorder in other counties of other classes, as a part of his compensation, shall be paid into the county treasury and no part thereof shall be retained by him as a part of his compensation.

4. **Auditor.** The auditor, one thousand five hundred dollars per annum; provided, that in counties of this class the auditor may appoint a deputy, which office of deputy auditor is hereby created; said deputy auditor shall receive as compensation for all services performed as such, the sum of six hundred dollars per annum, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. This subdivision of this section shall not go into effect or be in force until the expiration of the term of office of the present incumbent.

5. **Treasurer.** The county treasurer, two thousand dollars per annum; provided, that in counties of this class the treasurer may appoint a deputy, which office of deputy treasurer is hereby created, and the said deputy treasurer shall receive as compensation for all services performed as such the sum of six hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. All fees, commissions or other compensation allowed by law to the treasurer in other counties of other classes shall be collected by the treasurer and be by him paid into the county treasury and no part thereof shall be retained by him as a part of his compensation.

6. **Tax collector.** The tax collector, two thousand dollars per annum; provided, that in counties of this class the tax collector may appoint a deputy tax collector, which office of deputy tax collector is hereby created, and said deputy tax collector shall receive as compensation for all services performed as such, the sum of seven hundred fifty dollars per annum, to be paid out of the county treasury, in equal monthly installments, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. In counties of this class

the tax collector may appoint a cashier, which office of cashier to the tax collector is hereby created, and said cashier shall receive as compensation for all services performed as such the sum of four dollars per day for each day actually employed as such, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid; provided, that such cashier shall be paid for not to exceed one hundred days in any one calendar year. All fees, commissions or compensation allowed by law to the tax collector in other counties of other classes shall be collected by the tax collector and be by him paid into the county treasury, and no part thereof shall be retained by him as a part of his compensation.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum; provided, in counties of this class the assessor may appoint a chief deputy assessor, which office of chief deputy assessor is hereby created, and said chief deputy assessor shall receive as compensation for all services performed as such the sum of one thousand two hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner, and out of the same fund as salaries of county officers are paid. The assessor may also appoint six field deputies, which offices of field deputies are hereby created, to serve for not exceeding ninety days in any one year, and said field deputy assessors shall each receive as compensation for all services performed as such the sum of four dollars per day for each day actually and necessarily employed as such, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid; providing, that each field deputy, when so employed, shall file with the auditor a statement verified by the oath of such field deputy and approved by the assessor, showing the number of days actually and necessarily employed in the performance of the duties of such employment during the period covered by said statement before any warrant for the payment of such compensation shall be drawn by the auditor. All commissions, fees or compensation for the collection of taxes on personal property, for the collection of poll taxes and road poll taxes, and for services in making out the roll of persons subject to military duty, and all other fees or commissions shall be collected by the assessor and by him paid into the county treasury and no part thereof shall be retained by him as a part of his compensation.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum. In counties of this class the district attorney may appoint a deputy attorney, which office of deputy district attorney is hereby created, and said deputy district attorney shall receive as compensation for all services performed as such the sum of one thousand five hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner and out of the same fund that salaries of county officers are paid. The district attorney may also appoint a stenographer for service in his office, which office of stenographer to the district attorney is hereby created, and said stenographer shall receive as compensation for

all services performed as such the sum of six hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner and out of the same fund that salaries of county officers are paid.

9. **Coroner.** The coroner, nine hundred dollars per annum. In counties of this class the coroner shall be allowed his actual traveling expenses in the performance of his official duties in the county when called away from the county seat, which are hereby declared to be a proper legal charge against the county, and shall be allowed, audited and paid out of the county treasury in the same manner as other county charges are allowed, audited and paid. All fees, commissions or other compensations allowed by law to the coroner in other counties of other classes as a part of his compensation shall be paid into the county treasury and no part thereof shall be retained by him as a part of his compensation; provided, that this subdivision of this section shall not go into effect or be in force until the expiration of the term of office of the present encumbent.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand six hundred dollars per annum and actual necessary traveling expenses when visiting schools of the county. The superintendent of schools may appoint a deputy superintendent of schools, which office of deputy superintendent of schools is hereby created, and said deputy superintendent of schools shall receive as compensation for all services performed as such the sum of nine hundred dollars per annum, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid.

12. **Surveyor.** The surveyor, one thousand dollars per annum, for all work performed for the county and in addition thereto his actual necessary traveling expenses incurred in connection with field work, and also actual necessary expenses incurred in such field work and actual expenses and costs of supplies in preparing maps, tracings, plats and diagrams for the county assessor or other county officers, when directed by him or them to prepare the same. All of such expenses and costs shall be proper legal charges against the county and shall be allowed, audited and paid out of the county treasury, in the same manner that other county charges are allowed, audited and paid. All fees, commissions, or other compensation allowed to the surveyor in other counties of other classes, except fees or charges for surveys made for private persons and not directed by the board of supervisors or county officers for county uses or purposes, shall be collected by the surveyor and by him paid into the county treasury and no part thereof, except such fess or charges for such private surveys, shall be retained by him as a part of his compensation.

13. **Classification of townships.** For the purpose of regulating the compensation of justices of the peace and constables, townships in counties of this class are hereby classified according to their population, as shown by the federal census of one thousand nine hundred ten as fol-

lows: Townships having a population of five thousand, or more, shall belong to and be known as townships of the first class; townships having a population of three thousand, and less than five thousand, shall belong to and be known as townships of the second class; townships having a population of one thousand, and less than three thousand, shall belong to and be known as townships of the third class; and townships having a population of less than one thousand shall belong to and be known as townships of the fourth class.

14. **Justices of the peace.** Justices of the peace shall receive the following salaries, which shall be paid monthly, out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid, to wit:

1. In townships of the first class, one hundred dollars per month.
2. In townships of the second class, seventy dollars per month.
3. In townships of the third class, forty dollars per month.
4. In townships of the fourth class, twenty-five dollars per month.

In addition to the said monthly salaries herein provided for, each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions or proceedings.

Justices of the peace, in townships of the first class, shall be allowed their actual office rent and necessary incidental expenses, not to exceed the sum of twenty-five dollars for any one month.

15. **Constables. Fees.** Constables shall receive the following salaries, which shall be paid monthly, out of the county treasury, at the same time, in the same manner and out of the same fund that salaries of county officers are paid, and which shall be in full of all services rendered by them in criminal cases, to wit:

1. In townships of the first class, seventy-five dollars per month.
2. In townships of the second class, fifty-five dollars per month.
3. In townships of the third class, thirty dollars per month.
4. In townships of the fourth class, twenty dollars per month.

Fees. In addition to said monthly salaries each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions or proceedings, and shall also be allowed all necessary expenses actually incurred in arresting and pursuing criminals and in conveying prisoners to court or to prison, which said actual necessary expenses shall be allowed, audited and paid out of the county treasury, in the same manner other county charges are allowed, audited and paid.

16. **Supervisors.** Each member of the board of supervisors shall receive one thousand two hundred dollars per annum, payable in equal monthly installments and which shall be in full for all services rendered as supervisors.

17. **Jurors.** In counties of this class the fees of grand jurors and trial jurors, in the superior court, in civil and criminal actions and in all special proceedings, shall be three dollars a day for each day's attendance, and mileage, to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, or in attending sessions of the grand jury, in going only.

In criminal actions such fees and mileage of such trial jurors shall be paid by the treasurer, out of the general funds of the county, upon warrants drawn by the auditor, who shall draw such warrants upon the written order of the judge of the superior court in which said juror was in attendance, and the treasurer shall pay all such warrants. [Amendment approved May 28, 1917; Stats. 1917, p. 1119.]

§ 4256. **Counties of twenty-seventh class, salaries of officers.** In counties of the twenty-seventh class, the officers, their clerks, deputies, stenographers and assistants, shall receive, as compensation for the services required of them by law or by virtue of their offices or appointments the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum and such fees as are now or may hereafter be allowed by law; and provided, that in counties of this class, there shall be, and is hereby allowed to the county clerk one deputy who shall be appointed by said county clerk, who shall be paid a salary of one thousand five hundred dollars per annum, and one deputy, who shall be appointed by said county clerk, and who shall be paid a salary of one thousand two hundred dollars per annum, which salary of said deputies herein provided for shall be paid out of the same fund, at the same time, and in the same manner as the salaries of other county officers are paid; provided, further, that in any year when a registration of voters is required by law, the county clerk may appoint such number of deputies as may be necessary for the convenient registration of voters in their respective precincts, and that each of said deputies so appointed for such purpose shall receive as compensation therefor the sum of ten cents for each elector registered by each of said deputies, said compensation to be paid out of the general fund of the county on presentation and filing with the board of supervisors of said county a duly verified claim therefor approved by said county clerk.

2. **Sheriff.** The sheriff, five thousand five hundred dollars per annum.

3. **Recorder.** The recorder, two thousand dollars per annum and six cents for each folio recorded.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum, and he may also appoint a deputy, which office of deputy auditor is hereby created, whose salary shall be one thousand five hundred dollars per annum, payable at the same time, out of the same fund and in the same manner as the salaries of other county officers are paid.

5. **Treasurer.** The treasurer, two thousand seven hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand dollars per annum; and provided, that in counties of this class, there shall be, and is hereby allowed to the tax collector, a deputy, who shall be appointed by said tax collector, who shall be paid a salary of one thousand two hundred dollars per annum, which said salary shall be paid at the same time, in the same manner, and out of the same fund as the salaries of other county officers are paid; provided, further, that in counties of this class there shall be and is hereby allowed to the tax collector one deputy for the period of

time embraced between the first day of October and the thirty-first day of December in each fiscal year, which said deputy shall be appointed by said tax collector, and shall be paid a salary of seventy-five dollars per month during the period of time said deputy shall be employed and which salary shall be paid at the same time, in the same manner and out of the same fund as the salaries of other county officers are paid.

7. **Assessor.** The assessor, four thousand dollars per annum, and such fees and commissions as are now or may hereafter be allowed by law; and provided, that in counties of this class there shall be and there is hereby allowed the assessor, a deputy, who shall be appointed by said assessor and who shall receive a salary of one thousand five hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of county officers are paid; provided, further, that in counties of this class there shall be and there is hereby allowed the assessor, two copyists for a period not exceeding four months in any one year, at a salary of fifty dollars each per month.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum; he may also appoint an assistant district attorney, which office is hereby created, whose salary shall be nine hundred dollars per annum; and in counties of this class he may also appoint a clerk, who shall be a stenographer, which office of clerk to the district attorney is hereby created, whose salary shall be six hundred dollars per annum; the salaries of said assistant district attorney and clerk shall be payable as the salaries of other county officers.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum; and actual traveling expenses when visiting the schools of his county, and one deputy, at a salary of one thousand two hundred dollars per annum.

12. **Surveyor.** The surveyor, one thousand five hundred dollars per annum, for all work performed for the county; provided, that in counties of this class there shall be and hereby is allowed to the surveyor one assistant to be appointed by the surveyor, whose salary shall be nine hundred dollars per annum, payable at the same time, out of the same fund and in the same manner as the salary of the surveyor is paid; and in addition thereto the surveyor shall be allowed actual traveling and other necessary expenses, incurred in connection with field work; provided, that whenever the surveyor is directed by the assessor to plat, trace or otherwise prepare maps, plats, or block-book for the use of the county assessor he shall be allowed only the actual cost of preparing the same.

13. **Justices of the peace.** Justices of the peace in counties of this class shall receive the following monthly salaries to be paid each month in the same manner, at the same time and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than five thousand,

one hundred fifty dollars per month; in townships having a population of more than two thousand five hundred and less than five thousand, seventy-five dollars per month; in townships having a population of more than one thousand and less than two thousand five hundred, thirty-five dollars per month; in townships having a population of more than five hundred and less than one thousand, twenty-five dollars per month; in townships having a population of less than five hundred, ten dollars per month. The board of supervisors of such counties shall furnish and maintain for the use of justices of the peace in townships having a population of two thousand five hundred or more, an office suitable for use as a courtroom, equipped with the necessary furniture for the proper and convenient conduct of business therein. The board of supervisors of such counties shall furnish and supply to the justices of the peace of the various townships in such counties the codes of this state and amendment thereto, and all necessary stationery, legal blanks and forms for the proper and convenient conduct of business.

14. **Constables.** The constables shall receive the following salaries to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases, and in all other criminal matters: In townships having a population of more than five thousand, one hundred dollars per month; in townships having a population of more than two thousand five hundred and less than five thousand, seventy-five dollars per month; in townships having a population of more than one thousand and less than two thousand five hundred, thirty-five dollars per month; in townships having a population of more than five hundred and less than one thousand twenty-five dollars per month; in townships having a population of less than five hundred, ten dollars per month; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses in his own district, for the service of a warrant of arrest or any other process in a criminal case, or other criminal matters (when such service is in fact made) both going and returning, ten cents per mile; for each mile traveled out of his county, both going to and returning from the place of arrest in the service of process five cents per mile, and for transporting persons to the county jail ten cents per mile each way. In addition to the monthly salary allowed him herein each constable shall receive for his own use, the fees in civil cases, which are now or may hereafter be allowed by law.

15. **Supervisors.** Each member of the board of supervisors, eight hundred dollars per annum, and his necessary expenses when attending to the business of the county, and ten cents per mile in going from his residence to the county seat in attending upon all meetings of the board of supervisors. For serving as road commissioner two hundred dollars per annum. Each supervisor shall be allowed not to exceed thirty dollars per month as traveling expenses while supervising the roads of his district.

16. **Reporter.** In counties of this class the official phonographic reporter of the superior court shall receive as compensation for his services the fees and compensation now or hereafter provided by law, and in addition thereto shall receive five dollars per day when not actually en-

gaged in reporting in said court, but when in attendance on said court in compliance with and as provided by section two hundred seventy-one of the Code of Civil Procedure, the said per diem of five dollars to be paid in the same manner as provided in criminal cases. [Amendment approved May 28, 1917; Stats. 1917, p. 1038.]

§ 4256a. **Fees of jurors, counties of twenty-seventh class.** In counties of the twenty-seventh class the fees and mileage of jurors shall be as follows: Grand jurors and trial jurors whenever summoned to attend before the superior court shall be paid three dollars per day for each day's attendance, and mileage, to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending said court or in attending sessions of the grand jury, in going only. The court shall make an order directing the auditor to draw his warrant on the county treasurer for the amount due, and the treasurer shall pay the same; provided, however, that such jurors as shall be sworn to try issues in civil cases or special proceedings of a civil nature shall be paid as the court shall order except where otherwise provided by law. [New section added May 28, 1917; Stats. 1917, p. 1042.]

§ 4257. **Counties of twenty-eighth class, salaries of officers.** In counties of the twenty-eighth class the county and township officers shall receive as compensation for the services required of them by law or by virtue of their offices the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum, and when a new great register of voters is required by law to be made, he shall receive three hundred dollars additional, which shall be in full for all services required in registering voters and making the great register; provided, that in counties of this class there shall be and is hereby allowed to the county clerk, a deputy who shall be appointed by said county clerk, who shall be paid a salary of one thousand two hundred dollars per annum, said salary to be paid in monthly installments at the same time, in the same manner, and out of the same fund as the county clerk is paid, said deputy to be in lieu of the deputy now allowed to the county clerk under subdivision nineteen of section four thousand two hundred fifty-seven of the Political Code of the state of California; provided, further, that it is expressly provided that in counties of this class where the number of judges of the superior court shall have been increased since the first day of January, eighteen hundred ninety-seven, or shall hereafter be increased, there must be and there hereby is allowed to the county clerk one additional deputy to act as courtroom clerk for each judge so appointed or elected, at a salary not exceeding one thousand two hundred dollars per annum for each of said deputies, to be paid at the same time and in the same manner as other county officers are paid.

2. **Sheriff.** The sheriff, five thousand one hundred dollars per annum, and he is hereby allowed, in addition thereto, one under-sheriff to be appointed by him, who shall receive one thousand two hundred dollars per annum, whose salary shall be paid by the county, in monthly installments, at the same time and in the same manner and out of the same fund as the sheriff is paid; provided, however, that said under-sheriff

shall be in lieu of the deputy now allowed under subdivision nineteen of section four thousand two hundred fifty-seven of the Political Code of the state of California; provided, further, that in counties of this class where the number of judges of the superior court shall have been increased since the first day of January, eighteen hundred ninety-seven, or shall hereafter be increased, there must be and there hereby is allowed to the sheriff of such county by reason of such increase one additional deputy to be appointed by the sheriff at a salary not exceeding one thousand two hundred dollars per annum, to be paid at the same time and in the same manner as other county officers are paid.

Said sheriff shall also have for his own use all fees, commissions and mileage for the service of all papers served by him and issued without his county.

3. **Recorder.** The recorder, three thousand two hundred dollars per annum, in full of all services, including filing and recording, mining and other location notices.

4. **Auditor.** The auditor, two thousand dollars per annum, and he is hereby allowed one deputy to be appointed by him, who shall receive one thousand dollars per annum, whose salary shall be paid by the county, in equal monthly installments, at the same time and in the same manner as the auditor is paid. The county auditor shall charge and collect for the clerical service of making estimates of tax sales provided for in section three thousand eight hundred seventeen of this code the sum of twenty-five cents for each tax sale if the property is delinquent for two years or less; the sum of fifty cents for each sale if the property is delinquent for more than two years. If said estimates are returned to the auditor and redemptions made within thirty days from date of issue and prior to the change of penalty, as provided for in section number three thousand eight hundred seventeen of this code, the amount charged for making said estimates shall be refunded to the redemptioner. If the redemption is not made as herein provided then the sum charged for making the estimate shall be paid into the county treasury.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum; provided, that all commissions received by the treasurer on the collection of inheritance taxes shall be paid into the county treasury.

6. **Tax and license collector.** The tax and license collector, two thousand dollars per annum in full compensation for all services, save and except that he be allowed a deputy, to be appointed by him, for eight months of each year, at a compensation of seventy-five dollars per month; the salary of said deputy to be paid by the county; provided, that all commissions and fees heretofore retained by the tax and license collector shall be paid into the county treasury.

7. **Assessor.** The assessor, three thousand dollars per annum, and he is hereby allowed in addition thereto ten deputies, to be appointed by him, who shall each receive not to exceed four dollars per day while engaged in the performance of their duties; provided, that the amount paid for services of deputy assessors shall not exceed two thousand four hundred dollars in any one year; provided, that all commissions hereto-

fore retained by the county assessor shall be paid into the county treasury.

8. **District attorney.** The district attorney, two thousand one hundred dollars per annum, and he is hereby allowed in addition thereto one deputy appointed by him, who shall receive nine hundred dollars per annum; provided, that the district attorney is entitled to receive and retain for his own use fifteen dollars to be taxed as costs for each suit brought under the provisions of article six, chapter one, title eight of part three of the Political Code.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** Public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and necessary expenses for traveling in visiting schools in the county, to be allowed by the supervisors of the county; and there shall be, and there is allowed to the superintendent in addition, a clerk or bookkeeper, who shall be appointed by the superintendent of schools, who shall be paid a salary of six hundred dollars per annum, said salary to be paid by such county in monthly installments at the time and in the same manner and out of the same fund as the salaries of county officers are paid.

12. **Surveyor.** The surveyor, ten dollars per day for all work performed for the county, and, in addition thereto, all necessary expenses and transportation for work performed in the field, which per diem and expenses shall be in lieu of all fees and per diem heretofore allowed by law.

13. **Population of townships.** For the purpose of regulating the compensation of justices of the peace and constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of one thousand nine hundred ten as follows: Townships having a population of three thousand and more shall belong to and be known as townships of the first class; townships having a population of two thousand five hundred and less than three thousand shall belong to and be known as townships of the second class; townships having a population of one thousand eight hundred and less than two thousand five hundred shall belong to and be known as townships of the third class; townships having a population of one thousand four hundred twenty-five and less than one thousand four hundred fifty shall belong to and be known as townships of the fourth class; townships having a population of one thousand four hundred fifty and less than one thousand eight hundred shall belong to and be known as townships of the fifth class, and townships having a population of less than one thousand four hundred twenty-five shall belong to and be known as townships of the sixth class.

14. **Justices of the peace.** Justices of the peace shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid, out of the general fund of

the county and which shall be in full for all services rendered by them in criminal cases, to wit: In townships of the first class, one hundred ten dollars per month; in townships of the second class, ninety dollars per month; in townships of the third class, seventy-five dollars per month; in townships of the fourth class, seventy-five dollars per month; in townships of the fifth class, fifteen dollars per month; and in townships of the sixth class, fifteen dollars per month. In addition to the monthly salaries herein allowed for services in criminal actions, cases and examinations, each justice of the peace may, for his own use, collect the following fees, and no other, in civil actions; provided, that the existing fee bill for the justices of the peace in counties of this class be repealed and the general fee bill of the state of California as provided for justices of the peace in section four thousand three hundred *e* of the Political Code be substituted therefor.

15. **Constables.** Constables shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid out of the general fund of the county, and which shall be in full of all services rendered by them in criminal cases, to wit: In townships of the first class, one hundred dollars per month; in townships of the second class, seventy-five dollars per month; in townships of the third class, seventy-five dollars per month; in townships of the fourth class, seventy-five dollars per month; in townships of the fifth class, fifteen dollars per month; and in townships of the sixth class, fifteen dollars per month. In addition to the monthly salaries herein allowed for services in criminal actions, cases and proceedings, each constable shall also be allowed all necessary expenses actually and properly incurred, in arresting and conveying prisoners to court or to prison, and also all necessary expenses actually incurred in the transportation of prisoners from prison to court, and the return of said prisoner to prison; and shall be allowed, also, for each mile actually traveled, both in going and coming in the service of subpoenas, in criminal actions, per mile, ten cents; which said expense and mileage shall be audited and allowed by the board of supervisors as other claims against the county are audited and allowed, and shall be paid out of the county treasury.

In addition to the monthly salaries herein allowed for services in criminal actions and cases, each constable may, for his own use, collect the following fees, and no others, in civil actions:

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when actually made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest, or for delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than one dollar and fifty cents per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs and other papers, except summons, complaint and subpoenas, per folio, ten cents; provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint and subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, fifty cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order, or paper, in civil actions, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order, or paper, in civil actions, in going only, twenty-five cents per mile; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage shall be charged, allowed, or paid in criminal or civil cases.

For each day's attendance in court, in civil cases, three dollars per day.

For executing a search warrant, two dollars; and for each mile necessarily traveled within his own county in executing a search warrant, both in going and returning from the place of search, fifteen cents; said fee and mileage to be paid by the party demanding the search.

For summoning a jury, in civil cases, two dollars, including mileage.

For commissions for receiving and paying over money on execution without levy, or when the goods or land levied on shall not be sold, one per cent. The fees herein allowed for the levy of an execution, and for making or collecting the money on execution, shall be collected from the judgment debtor, by virtue of such execution, in the same manner as the sum herein directed to be paid.

16. **When new township formed. Payment of fees.** It is expressly provided that in counties of this class, where a township has been created, or may hereafter be created out of any township, the population of which is shown in the federal census of nineteen hundred ten, the population of the newly created township and the population of the township from which the newly created township was taken shall be separately ascertained and determined by the board of supervisors in the following manner: By appointing a suitable person in each of such townships to take said census, and said census shall be taken by said person so appointed of all the inhabitants of each of said townships; the full name of each person shall be fully written, the names alphabetically and regularly numbered in one complete series, and when completed shall be verified before any officer authorized to administer oaths, and be filed with the county clerk, and thereupon the same shall be the official census of said township or townships. The expense of taking said census shall be a county charge. From the taking of such census the salary of the justices of the peace and of the constables of the newly created township, and the township from which the newly created township was taken, shall

be estimated and paid on the basis of the classification hereinbefore given under the federal census of nineteen hundred ten, pro rata according to the population of the newly created and former township as shown by the census taken as hereinbefore provided to be ascertained and determined by the board of supervisors. County officers must, and township officers may, demand the payment of all fees in advance. Justices of the peace shall, on or before the first Monday of each month, pay into the county treasury all moneys collected by them on fines imposed and collected and all moneys belonging to the county coming from any source.

17. **Supervisors.** Each member of the board of supervisors, one thousand five hundred dollars per annum and ten cents per mile, one way between residence and county seat, in attending upon all regular, special or adjourned meetings of the board of supervisors; provided, that the chairman of the board of supervisors may receive twenty-five cents per mile, one way, between residence and the county seat, when attending at the county seat for the single purpose of counting the money in the county treasury as required by law. [Amendment approved May 28, 1917; Stats. 1917, p. 1016.]

§ 4258. **Counties of twenty-ninth class, salaries of officers.** In counties of the twenty-ninth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand five hundred dollars per annum and such fees as are now or may be hereafter by law; provided, that in counties of this class there shall be and there is hereby allowed to the county clerk, one clerk, which office is hereby created, at a salary of one hundred dollars per month and who shall be appointed by the county clerk. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time, and in the same manner and out of the same fund as the salary of the county clerk is paid.

2. **Sheriff.** The sheriff, six thousand dollars per annum.

3. **Recorder.** The recorder, three thousand five hundred dollars per annum.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the auditor one clerk, which office is hereby created, at a salary of seventy-five dollars per month, and who shall be appointed by the auditor. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the auditor is paid.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand dollars per annum; provided, he shall have power to appoint one deputy at a salary of seventy-five dollars per month, payable at the same time and in the same

manner as that of other county officers; and provided, further, that in counties of this class all the fees and commissions of every name and nature received by the tax collector shall be paid into the county treasury.

7. **Assessor.** The assessor, four thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the assessor one clerk, which office is hereby created, at a salary of one hundred dollars per month, and who shall be appointed by the assessor. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time, and in the same manner, and out of the same fund as the salary of the assessor is paid. The assessor may also appoint five field clerks, which offices of field clerks are hereby created, to serve not exceeding sixty days in any one year, and said field clerks shall receive as compensation for all services performed as such, the sum of five dollars per day for each day actually and necessarily employed as such, to be paid out of the county treasury in the same manner, at the same time and out of the same fund as the salaries of the county officers are paid; provided, that each field deputy, when so employed, shall file with the auditor a statement verified by the oath of such field deputy and approved by the assessor, showing the number of days actually and necessarily employed in the duties of such employment during the period covered by said statement, before any warrant for the payment of such compensation shall be drawn by the auditor. All commissions, fees or compensation for the collection of taxes on personal property, for services in making out the roll of persons subject to military duty, and all other fees and commissions shall be collected by the assessor and by him paid into the county treasury and no part shall be retained by him as part of his compensation.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum, and he is hereby allowed in addition thereto one clerk to be appointed by him, who shall receive nine hundred dollars per annum, said salary to be paid in the same manner, at the same time, and out of the same fund as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand one hundred dollars per annum and actual traveling expenses when visiting schools of his county, and such per diem as he may be now or hereafter allowed by law for his services on the board of education; provided, that in counties of this class there is allowed to the superintendent of schools one clerk, which office of clerk is hereby created, at a salary of seventy-five dollars per month, and who shall be appointed by the superintendent of schools. The salary of said clerk is to be paid at the same time, in the same manner, and out of the same fund as the salaries of the other county officers are paid.

12. **Surveyor.** The county surveyor, two thousand seven hundred fifty dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the surveyor one deputy, who shall be appointed by the surveyor of said county, and shall be paid a salary of one thousand five hundred dollars per annum; the salary of such surveyor shall be paid by such county in equal monthly installments at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid. The county surveyor shall make up all maps, plats and block-books required by the county assessor; he shall do all work for the county in which the county employs a surveyor or civil engineer; he shall have general advisory supervision over all road and bridge work for the county and shall file annually with the board of supervisors a statement, which shall be published as a part of the proceedings of said board, showing the cost of all new road and bridge construction in the county, also the cost per mile of maintaining the different roads of the county for the preceding fiscal year; and provided, further, that when in the judgment of the board of supervisors of the county it is necessary to employ additional assistants for the performance of any of said work, the board of supervisors shall allow the necessary actual expense thereof; and provided, further, that said county surveyor shall be allowed all necessary transportation and expenses incurred by himself or deputies for work performed in the field; the salary of the deputy herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as other county officers are paid. The salary herein fixed for said surveyor shall be in lieu of all fees, commissions or compensation of whatsoever kind or nature for services performed by said surveyor for said county. All acts or parts of acts relative to such fees, commissions or compensation for work performed for counties of this class by such county surveyor are hereby repealed.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered in both civil and criminal cases: In townships where the population is three thousand five hundred, or more, seventy-five dollars per month, and said justice of the peace shall be furnished with offices and necessary supplies by the board of supervisors of said county; in townships where the population is two thousand five hundred, or more, and less than three thousand five hundred, fifty dollars per month; in townships where the population is one thousand five hundred, or more, and less than two thousand five hundred, thirty-five dollars per month; in townships where the population is one thousand, or more, and less than one thousand five hundred, twenty-five dollars per month; in townships where the population is less than one thousand, fifteen dollars per month; provided, that all fees and fines chargeable and collectible by justices of the peace in civil and criminal cases for services rendered by them shall be collected by them and by them paid monthly into the county treasury; provided, further, that for the purpose of this subdivision, the population of the several townships shall be ascertained by the board of supervisors, by multiplying the number of registered voters at the last general election of each township by three.

14. **Constables.** Constables, in townships having a population of two thousand or more, shall receive a monthly salary of fifty dollars per month; in townships having a population of one thousand or less than two thousand, shall receive a salary of forty dollars per month and in townships having a population of less than one thousand shall receive a salary of twenty dollars per month. Constables shall also receive actual traveling expenses in transporting prisoners to the county jail. The salaries of township officers, herein provided for, shall be paid monthly, in the same manner as the salaries of the county officers are paid, and shall be in full compensation for all services rendered by them in criminal cases.

15. **Supervisors.** The meetings of the board of supervisors shall be monthly and shall be held on the first Monday of each and every month. Each member of the board of supervisors is to receive a salary of one thousand two hundred dollars per annum and mileage at the rate of twenty cents per mile from his home to and from county seat.

16. **Fees of jurors.** Grand jurors and trial jurors in the superior court shall receive from each day's attendance per day the sum of three dollars. In justices' courts in civil and criminal cases, the jurors sworn to try the case shall receive for each day's attendance per day the sum of two dollars. All jurors shall receive for each mile actually and necessarily traveled from his residence to the place of service the sum of fifteen cents per mile; provided, that in justice courts mileage shall be allowed only to those sworn to try the case. [Amendment approved May 28, 1917; Stats. 1917, p. 1013.]

§ 4259. **Counties of thirtieth class, salaries of officers.** In counties of the thirtieth class the county officers shall receive as compensation for the services required of them, by law or by virtue of their offices the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be, and there hereby is, allowed to the county clerk the following deputies, who shall be appointed by the county clerk and who shall be paid salaries as follows: One chief deputy clerk, at a salary of one hundred twenty-five dollars per month, one deputy clerk at a salary of one hundred dollars per month, and one stenographer at a salary of seventy-five dollars per month. The salaries of the deputies hereinabove provided for shall be paid by the county in monthly installments, at the time and in the manner, and out of the same fund as the salaries of other county officers are paid; provided, further, however, that in each year in which a new and complete registration of voters is required by law the county clerk may appoint an additional deputies or deputies whose compensation in the aggregate shall not exceed four hundred dollars in any one year; and provided, further, that the county clerk shall file with the county auditor a certified statement showing in detail the amount and persons to whom said compensation is paid. Such salaries of such deputies shall be paid out of the same fund as the salaries of other county officers are paid.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff the following deputies, who shall be appointed by the sheriff and shall be paid salaries as follows, to wit: One undersheriff at a salary of two hundred dollars per month, one deputy sheriff at a salary of one hundred dollars per month, and one deputy sheriff at seventy-five dollars per month, who shall be head jailer at the county jail in said county; provided, that if the sheriff shall not be allowed the privilege of boarding the prisoners as heretofore provided, in this county, then the deputy who shall be head jailer shall receive the salary of one hundred dollars per month; said sheriff and his deputies shall be allowed their actual traveling expenses in the performance of their duties, but no other fees or mileage of any nature or kind shall be allowed in civil or criminal matters; all fees of every nature and kind collected by the sheriff shall be turned into the county treasury. The salaries of the deputies hereinbefore provided shall be paid in monthly installments by said county, at the same time and manner and out of the same fund as the salaries of other county officers are paid.

3. **Recorder.** The recorder, three thousand dollars per annum; provided, that in counties of this class, there shall be and there is hereby allowed to the recorder two copyists who shall be appointed by the recorder of said county, each of whom shall be paid a salary of seventy-five dollars per month, which salaries shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid.

4. **Auditor.** The auditor, on thousand eight hundred dollars per annum.

5. **Tax collector.** The tax collector, two thousand one hundred dollars per annum; provided, that in counties of this class, there shall be and there hereby is allowed to the tax collector a deputy to be appointed by the tax collector, who shall receive a salary of seventy-five dollars per month, which salary shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid.

6. **Assessor.** The assessor, three thousand six hundred dollars per annum; and said assessor may appoint one chief deputy, who shall receive a salary of one thousand two hundred dollars per annum, which salary shall be paid by the county in equal monthly installments; also, he may appoint other field deputies whose compensation in the aggregate shall not exceed two thousand dollars in any one year, payable to them in installments, at such time and in such amounts as may be designated by the assessor; provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts and the persons to whom said compensation is paid. All of the salaries of the above deputies shall be paid in the same manner and out of the same fund as the salaries of other county officials are paid. All commissions or fees now or hereafter allowed by law shall be paid into the county treasury and no compensation shall be allowed the assessor for preparing the military roll of a county of this class. The office of the county

assessor shall be kept open on each and every day, except Sundays and legal holidays, from nine o'clock A. M. to twelve o'clock M., and from one o'clock P. M. to five o'clock P. M. The changes provided in this section do not affect an increase in the compensation of a county officer and shall apply immediately to incumbents.

7. **Treasurer.** The county treasurer, two thousand one hundred dollars per annum; provided, that all commissions received by the treasurer on the collection of inheritance taxes shall be paid into the county treasury; provided, further, that in counties of this class the county treasurer may appoint a deputy or deputies whose compensation in the aggregate shall not exceed three hundred dollars in any one year, payable to them in installments at such times and in such amounts as may be decided by the county treasurer; provided, that said treasurer shall file with the county auditor a verified statement showing in detail the amounts and the persons to whom said compensation is paid. All of the salaries of such deputies shall be paid in the same manner and out of the same fund as the salaries of other county officials are paid.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney a deputy, who shall be appointed by the district attorney of said county, and whose salary is hereby fixed at the sum of one thousand two hundred dollars per annum, which shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the district attorney.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** Public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand one hundred dollars per annum. His office shall be kept open on all business days from nine A. M. to twelve M., and from one P. M. to five P. M. He shall be allowed his actual traveling expenses, when visiting the schools of this county and such per diem as is now or may hereafter be allowed by law for services as a member of the county board of education; provided, that in counties of this class there shall be and there hereby is allowed to the superintendent of schools a deputy, to be appointed by the superintendent of schools, who shall receive from the county a salary of one thousand dollars per annum, which salary shall be paid by the county in equal monthly installments, and which said salary shall be paid at the same time and in the same manner and out of the same funds as is the salary of the superintendent of schools.

12. **Surveyor.** The county surveyor, two thousand five hundred dollars per annum; provided, that if the county surveyor shall be appointed superintendent of the permanent highways in the county constructed under bond issue, under any statute of this state providing for the appointment of such superintendent, then and in that event said

county surveyor shall receive a salary of four thousand dollars per annum; and said surveyor may appoint one chief deputy surveyor who shall receive a salary of one thousand five hundred dollars per annum; also, one deputy who shall receive a salary of one thousand two hundred dollars per annum; such compensation and salary as above set forth shall be paid in full for all services rendered by such county surveyor; provided, that said county surveyor shall be allowed all necessary transportation and expenses incurred by himself or deputies for work performed in the field, and in the official discharge of his duties; such salary to be paid at the same time, in the same manner and out of the same fund as salaries of other county officials are paid.

13. **Board of education.** In counties of this class, each member of the county board of education shall receive five dollars for each day the board of education is in session, not to exceed a total of three hundred fifty dollars per annum. In addition each member shall receive the same mileage as is allowed the members of the board of supervisors of said county. Compensation of the members of the county board of education shall be payable out of the same funds and in the same manner as is the salary of the county superintendent of schools.

14. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered in both civil and criminal cases: In townships where the population is four thousand or more, one hundred fifty dollars per month, and said justice of the peace shall be furnished with offices and necessary supplies by the board of supervisors of said county; in townships where the population is two thousand and less than four thousand, eighty dollars per month; in townships where the population is one thousand and less than two thousand, forty dollars per month; in townships where the population is less than one thousand, twenty dollars per month; provided, that the justice of the peace shall, before receiving his monthly salary, file with the auditor a statement of all fines received, together with the treasurer's receipt for same; provided, further, that no justice of the peace shall hold the office of city recorder.

15. **Constables.** Constables shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships where the population is four thousand or more, eighty dollars per month; in townships where the population is two thousand and less than four thousand, seventy dollars per month; in townships where the population is one thousand and less than two thousand, fifty dollars per month; in townships where the population is less than one thousand, twenty-five dollars per month. In addition to the monthly salary herein allowed, each constable may retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions, and shall also be allowed all necessary expenses actually incurred in arresting or conveying prisoners to court or to prison, which said expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury.

16. **Population of townships.** For the purposes of subdivisions fourteen and fifteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors by multiplying by three the vote for governor of the state of California cast in each township at the next preceding election.

17. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum, and their necessary expenses when attending to the business of the county, other than the meetings of the board at the county seat, and twenty cents per mile in traveling from his residence to the county seat; provided, that not more than one mileage for any one regular session of the board shall be allowed, and not more than one mileage for any special session of the board shall be allowed.

18. **Salaries payable monthly.** The salaries of all county and township officers and their deputies shall be payable in monthly installments on the first day of each month.

19. **Grand jurors.** For acting as a grand juror in the superior court, for each day's attendance per day, three dollars. For every mile actually traveled in attending court as a grand juror, in going only, twenty-five cents per mile. [Amendment approved April 16, 1917; Stats. 1917, p. 126.]

§ 4260. **Counties of thirty-first class, salaries of officers.** In counties of the thirty-first class the county and township officers shall receive, as compensation for the services required of them by law and by virtue of their offices, the following salaries and fees, to wit:

1. **County clerk.** The county clerk, three thousand two hundred fifty dollars per annum; and also such compensation as is now or may hereafter be allowed by law; and in each year in which a new and complete registration of voters is required by law he shall receive such an amount as shall be necessary to pay deputy registration clerks for taking affidavits of registration outside of the office at the rate of ten cents each, and such an amount as shall be necessary to pay deputies in the office for enrolling the registrations upon the great register at the rate of four cents each, the claims for which shall be presented and allowed by the board of supervisors as other claims are presented and allowed; he may also appoint a deputy clerk, which office of deputy clerk is hereby created, whose salary shall be nine hundred dollars per annum, payable as the salaries of county officers are paid.

2. **Sheriff.** The sheriff, six thousand dollars per annum.

3. **Recorder.** The recorder, two thousand two hundred fifty dollars per annum; provided, that such recorder shall collect and pay into the county treasury for the use and benefit of the county the fees required by law to be so collected; and provided, that when the amount of said fees so collected shall amount to more than two hundred dollars in any one month, the said recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of two hundred dollars in one month so collected; and provided, that in counties of this class

the recorder may appoint two copyists for service in his office, which office of copyists for the county recorder is hereby created, and said copyists shall receive as compensation for their services the sum of five hundred forty dollars each per annum, to be paid out of the county treasury in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, two thousand dollars per annum; he may also appoint a deputy auditor, which office of deputy auditor is hereby created, whose salary shall be seventy-five dollars per month, payable as the salaries of all other county officers are paid. The provisions of this subsection do not increase the compensation of a county officer and shall take effect immediately.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, one thousand dollars per annum; provided, that said tax collector shall perform the duties and receive and retain for his own use, the fees provided by law for the license tax collector.

7. **Assessor.** The assessor, four thousand two hundred fifty dollars per annum; provided, that in counties of this class the assessor may appoint a field deputy, which office of field deputy is hereby created, who shall hold office from the first day of March of each year up to and including the last day of July of each year. The salary of said field deputy herein provided for is fixed at the sum of one hundred fifty dollars per month, to include expenses for each month during which the said field deputy holds office, as herein provided. The salary of said field deputy shall be paid at the same time, in the same manner and out of the same fund as the salaries of other county officers are paid.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum; he may also appoint a deputy, which office of deputy district attorney is hereby created, whose salary shall be one thousand dollars per annum, payable as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, including services on the board of education. He shall be allowed his actual traveling expenses not to exceed three hundred dollars per annum; he shall also be allowed one deputy whose salary shall be fifty dollars per month, payable the same as the salary of county officers; provided, that he shall keep his office open from nine o'clock A. M. to five o'clock P. M. of each business day.

12. **Surveyor.** The surveyor shall receive a per diem of ten dollars for all work performed for the county, in addition thereto all necessary expenses and transportation on work performed in the field.

13. **Population of townships. Justices of the peace.** For the purpose of fixing the compensation of justices of the peace according to their

duties, townships of this class of counties are hereby classified according to population. The population shall be determined by the board of supervisors upon the enactment of this act, and also at the time of the formation of any new township of townships. The board may determine such population by multiplying by three the number of registered voters at the last general election next preceding the date of such determination.

Townships having a population of five thousand eight hundred or more shall belong to and be known as townships of the first class; townships having a population of four thousand and less than five thousand eight hundred shall belong to and be known as townships of the second class; townships having a population of three thousand and less than four thousand shall belong to and be known as townships of the third class; townships having a population of two thousand two hundred and less than three thousand shall belong to and be known as townships of the fourth class; townships having a population of one thousand seven hundred and less than two thousand two hundred shall belong to and be known as a township of the fifth class; townships having a population of one thousand two hundred and less than one thousand seven hundred shall belong to and be known as townships of the sixth class; townships having a population of six hundred and less than one thousand two hundred shall belong to and be known as townships of the seventh class; townships having a population of three hundred and less than six hundred shall belong to and be known as townships of the eighth class; townships having a population of less than three hundred shall belong to and be known as townships of the ninth class.

Justices of the peace shall receive the following salaries: In townships of the first class, the sum of nine hundred dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of nine hundred dollars per annum; in townships of the second class, the sum of seven hundred eighty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of seven hundred eighty dollars per annum; in townships of the third class, the sum of six hundred sixty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of six hundred sixty dollars per annum; in townships of the fourth class, the sum of six hundred dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of six hundred dollars per annum; in townships of the fifth class, the sum of three hundred twenty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of three hundred twenty dollars per annum; in townships of the sixth class, the sum of two hundred forty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of two hundred forty dollars per annum; in townships of the seventh class, the sum of one hundred eighty dollars for the period beginning with the date upon which this act becomes effective and ending with December 31, 1915, and thereafter a salary of one hundred eighty dollars per annum; in townships of the eighth class, the sum of one hundred twenty dollars for the period be-

ginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of one hundred twenty dollars per annum; in townships of the ninth class, the sum of sixty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of sixty dollars per annum.

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officers are paid and shall be compensation in full for all services rendered.

All fees received by justices of the peace shall be paid into the county treasury every month.

14. **Constables.** The constable shall receive the following fees, to wit: For serving summons and complaint, for each defendant served one dollar; for each copy of summons for service when made by him, twenty-five cents; for levying writ of attachment or execution or executing order of arrest or for the delivery of personal property, one dollar; for keeping personal property, such sum as the court may order, but no more than two dollars per day shall be allowed for a keeper when necessarily employed; for taking bond or undertaking, fifty cents; for copies of writs and other papers, except summons, complaints and subpoenas, per folio ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for copies, for serving any writ, notice or order, except summons, complaint or subpoenas, for each person served, fifty cents; for writing and posting each notice of sale of property, twenty-five cents; for serving subpoenas, each witness, including copy, twenty-five cents; for collecting money on execution, two and one-half per cent, to be charged against the defendant named in the execution; for executing and delivering a certificate of sale, one dollar; for executing and delivering constable's deeds, two dollars; for every mile necessarily traveled in his township, in going only, to serve any civil or criminal process or paper, or to take a prisoner before a magistrate or to a prison, twenty-five cents, outside of his township, but within his county, twenty cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the more distant if they live in the same direction; for each mile traveled outside his county in making criminal arrests, both going and returning from the place of arrest, ten cents; in transporting prisoners to the county jail, or before a magistrate, either upon arrest or for trial or examination, or after conviction, he shall receive in addition to the above mileage his actual and necessary expenses for himself and prisoners; provided, that if two or more prisoners are transported at the same time, no more than one mileage shall be allowed; for making each arrest in criminal cases, one dollar and fifty cents; for sales of estrays, the same fees as for sales on execution; for summoning a jury, two dollars, including mileage; for all other services, the same fees as are allowed sheriffs for like services; provided, further, that no more than sixty dollars shall be allowed to any constable in counties of this class in any one month for fees and mileage in criminal matters.

15. **Supervisors.** Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to and from the county seat; provided, such mileage shall not be allowed more than once

a month; and for his services as road commissioner he shall receive twenty cents a mile one way, for all distances actually and necessarily traveled by him in the performance of his duties; provided, he shall not in any one year receive more than three hundred dollars as such road commissioner. The road commissioners shall be reimbursed for all traveling, personal and other necessary expenses while actually engaged in the performance of their duties upon the road; provided, that the full amount of expenses incurred shall not exceed six hundred dollars in any one year, to be allowed as any other claim by the board of supervisors.

16. **Probation officer.** The probation officer, one thousand two hundred dollars per annum; provided, further, that said probation officer shall devote his entire time to the performance of the duties of said office.

17. **Jurors.** In counties of this class grand jurors and jurors in the superior court shall receive for each day's attendance the sum of three dollars, and for each mile actually and necessarily traveled from residence to county seat the sum of twenty-five cents; such mileage to be allowed but once during each session such jurors are required to attend. [Amendment approved May 28, 1917; Stats. 1917, p. 1160.]

§ 4261. **Counties of thirty-second class, salaries of officers.** In counties of the thirty-second class, the county officers shall receive as compensation for their services required of them by law, or by virtue of their office, the following salary, or fees, to wit:

1. **County clerk.** The county clerk, two thousand five hundred dollars per annum, and one deputy at a salary of one thousand two hundred dollars per annum, and one deputy at a salary of one thousand dollars per annum. The salary of said deputies to be payable monthly in the same manner as the salaries of the other county officers are paid; provided, further, however, that in each year in which a new and complete registration of voters is required by law the county clerk may appoint an additional deputy or deputies whose compensation in the aggregate shall not exceed four hundred dollars in any one year; and provided, further, that the county clerk shall file with the county auditor a certified statement showing in detail the amount and persons to whom said compensation is paid. Such salaries of such deputies shall be paid out of the same fund as the salaries of other county officers are paid.

2. **Sheriff.** The sheriff, three thousand dollars per annum and one jailer at a salary of one hundred dollars per month, and one bailiff at a salary of one hundred dollars per month, one deputy at a salary of one hundred dollars per month, which office is hereby created, the salary of said jailer, bailiff and deputy payable monthly in the same manner as the salaries of the other county officers are paid.

3. **Recorder.** The recorder, two thousand dollars per annum, and one copyist at a salary of nine hundred dollars per annum, which office of copyist is hereby created, and one copyist at a salary of nine hundred dollars per annum, which office of copyist is hereby created, the salary of said copyists payable monthly in the same manner as the salaries of other county officers are paid.

4. **Auditor.** The auditor, two thousand dollars per annum and one deputy during the months of July, August, September, October, Novem-

ber, and December of each year, at a salary of one hundred dollars per month, which office of deputy auditor is hereby created, the salary of said deputy payable monthly in the same manner as the salaries of other county officers are paid.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, two thousand five hundred dollars per annum, and one deputy at a salary of seventy-five dollars per month, which office of deputy tax collector is hereby created, the salary of said deputy payable monthly in the same manner as the salaries of other county officers are paid.

7. **Assessor.** The assessor, four thousand five hundred dollars per annum; one chief deputy, which office of chief deputy assessor, is hereby created, at a salary of one thousand two hundred dollars per annum, payable monthly in the same manner as the salaries of other county officers are paid; one copyist for a period of four months in each year, which office of copyist is hereby created, at a salary of seventy-five dollars per month, payable during the months of March, April, May and June of each year, in the same manner as the salaries of other county officers are paid. The assessor may also appoint such number of additional deputies as he shall deem necessary, the salaries of such additional deputies to be paid by the assessor out of his salary above provided for. All sums collected by the assessor or his deputies as fees or commissions allowed by law for the collection of personal property taxes, for making the military roll and for commissions now or hereafter allowed by law for the collection of poll taxes, shall be paid into the county treasury, for the use of said county, monthly as collected, with a statement of account of such collection.

8. **District attorney.** The district attorney, two thousand dollars per annum.

9. **Coroner.** The coroner, such fees as are now, or may be hereafter provided by law.

10. **Public administrator.** The public administrator, such fees as are now, or may be hereafter provided by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and one clerk, which office of clerk to the superintendent of schools is hereby created, at a salary of nine hundred dollars per annum, payable monthly in the same manner as the salaries of other county officers are paid.

12. **Surveyor.** The surveyor, such fees as are now, or may be hereafter provided by law.

13. **Supervisors.** Supervisors, each the sum of eight hundred dollars per annum in full for all services performed by them as supervisors, and as members of the board of equalization, and road commissioners, and in any and every capacity.

14. **Justices of the peace. Constables.** Justices of the peace shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them. In townships having a

population of more than six thousand, one hundred dollars per month; in townships having a population of less than six thousand and more than three thousand, seventy-five dollars per month; in townships having a population of less than three thousand and more than seven hundred fifty, forty-five dollars per month; in townships having a population of less than seven hundred fifty, ten dollars per month. It is hereby found as a fact that the salaries provided for this subdivision do not work an increase in compensation, and the same shall apply immediately to incumbents.

Constables shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases. In townships having a population of more than six thousand, one hundred dollars per month; in townships having a population of less than six thousand and over three thousand, seventy-five dollars per month; in townships having a population of less than three thousand and over seven hundred fifty, fifty dollars per month; in townships having a population of less than seven hundred fifty, ten dollars per month. The constables may retain for their own use all other fees, except those in criminal cases, as are now or may hereafter be provided by law. [Amendment approved May 28, 1917; Stats. 1917, p. 1152.]

§ 4261a. Fees of jurors, counties of thirty-second class. In counties of the thirty-second class, grand jurors, and trial jurors in the superior court in criminal cases, shall be paid three dollars per day for each day's attendance, and for each mile actually traveled in going only, while acting as such juror, ten cents, and the judge of said court shall make an order directing the auditor to draw his warrant on the treasury in favor of such juror for said per diem and mileage, and the treasurer shall pay the same. [New section added May 28, 1917; Stats. 1917, p. 1166.]

§ 4262. Counties of thirty-third class, salaries of officers. In counties of the thirty-third class, the county officers shall receive as compensation for the services required of them, by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum; and in any year when a new and complete or supplemental registration of voters is required by law to be made, he shall receive the sum of twelve cents for each elector registered, which shall be allowed by the board of supervisors at the close of registration preceding a general election, and paid from the general fund of the county. The county clerk shall be allowed one deputy at a salary of one thousand two hundred dollars per annum, and one deputy at a salary of nine hundred dollars per annum. The county clerk shall also be allowed two copyists during the month of October in each even numbered year and prior to the holding of the November general election, said copyists to receive a salary of fifty dollars each for said month; said deputies and copyists to be appointed by the county clerk.

2. **Sheriff.** The sheriff, five thousand dollars per annum, and necessary expenses for pursuing criminals or transacting any criminal business. The sheriff shall be allowed one deputy, who shall be the jailer, at a

salary of one thousand two hundred dollars per annum; said deputy to be appointed by the sheriff; and such additional deputies as may be required to enforce the provisions of the motor vehicle law, said deputies to be appointed by the sheriff and to receive such compensation, to be paid out of the general fund of the county, as the board of supervisors may fix.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum. The recorder shall be allowed four copyists, each of whom shall receive a salary of nine hundred dollars per annum; said copyists to be appointed by the recorder.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum. The auditor shall be allowed one deputy at a salary of nine hundred dollars per annum; said deputy to be appointed by the auditor.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand dollars per annum. The tax collector shall be allowed one deputy at a salary of one thousand two hundred dollars per annum; said deputy to be appointed by the tax collector; and provided, further, that the said tax collector shall be allowed one deputy who shall hold office during the months of September, October, November and December at a salary of seventy-five dollars per month; said deputy to be appointed by the tax collector.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum. The assessor shall be allowed one chief deputy at a salary of one thousand eight hundred dollars per annum; one deputy at a salary of one thousand three hundred twenty dollars per annum; one deputy for a term of eight months each year at a salary of seventy-five dollars per month; two deputies for a period of three months each year at salaries of one hundred twenty-five dollars per month each; eight deputies for a period of two months each year at salaries of one hundred twenty-five dollars per month each; two deputies for a period of one month each year at salaries of one hundred twenty-five dollars per month each. The said deputies shall be appointed by the assessor at such time or times as said assessor shall see fit.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum. The district attorney shall be allowed one stenographer at a salary of nine hundred dollars per annum; said stenographer to be appointed by the district attorney.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum; and shall also be allowed the compensation allowed by law for services on the board of education, and actual traveling expenses when visiting schools in his (or her) county. The superintendent of schools shall be allowed one deputy at a salary of one thou-

sand two hundred dollars per annum; said deputy to be appointed by the superintendent of schools.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law; provided, the surveyor shall annually revise the plats in the office of the assessor, for which he shall receive a sum not to exceed four hundred dollars in any one year.

13. **Population of townships.** For the purpose of regulating the compensation of justices of the peace and constables, townships in counties of the thirty-third class are hereby classified according to population to be determined by the board of supervisors at the time of the formation of any new judicial township or townships in the manner prescribed by section four thousand fifty-five of the Political Code. Townships having a population of five thousand or more shall belong to and be known as townships of the first class. Townships having a population of less than five thousand and more than three thousand five hundred shall belong to and be known as townships of the second class. Townships having a population of less than three thousand five hundred shall belong to and be known as townships of the third class. Justices of the peace shall receive the following salaries for all services rendered by them: In townships of the first class, one hundred dollars per month; in townships of the second class, fifty dollars per month; in townships of the third class, thirty-five dollars per month.

The amendments provided for in the subdivision shall not take effect until the expiration of the terms of office of the present incumbents.

14. **Constables.** Constables in counties of this class shall receive the following salaries for all services rendered by them in criminal cases: In townships of the first class, one hundred dollars per month; in townships of the second class, fifty dollars per month; in townships of the third class, thirty-five dollars per month. Constables shall also receive for their own use and benefit, such fees as are now or may hereafter be allowed by law in civil cases. They shall also be allowed their actual expenses in conveying prisoners from place of arrest to court, and, in case of conviction, from the court to the county jail.

The amendments provided for in this subdivision shall not take effect until the expiration of the terms of office of the present incumbents.

15. **Supervisors.** Supervisors, each, the sum of one thousand two hundred dollars per annum for all services performed by them as supervisors and as members of the board of equalization. Each supervisor shall receive mileage at the rate of ten cents per mile for each mile traveled in going to and from the meeting of the board. They shall act as road commissioners in their respective districts and shall receive for their services as such road commissioner mileage at the rate of twenty-five cents per mile for all distances actually traveled by them in the discharge of their duties as such road commissioner; provided, that such mileage as road commissioner shall not in any one year exceed the sum of six hundred dollars for any one of the road commissioners.

It is intended that the same shall apply immediately to the present incumbents.

16. **Reporter.** The official reporter of the superior court, such fees as are now or may hereafter be allowed by law.

17. **Juror fees.** Juror fees shall be as follows: For attending as a grand juror, or a trial juror in the superior court, for each day's attendance, three dollars per day; for each mile he travels in attending court as such juror, fifteen cents per mile in going only.

18. **Public defender.** If at any time there shall be created and established in this state a county office designated the office of county public defender, then, and in that case, the salary to be allowed such officer in counties of this class shall be one thousand two hundred dollars per annum.

19. **Idem.** The provisions of subdivision eighteen of this section shall have no force or effect unless the office therein anticipated is created by constitutional or legislative enactment.

20. **Monthly salaries.** The salaries of all county and township officers and their deputies shall be payable in equal monthly installments from the salary fund of the county on the first day of each month. [Amendment approved May 28, 1917; Stats. 1917, p. 989.]

§ 4263. **Counties of thirty-fourth class, salaries of officers.** In counties of the thirty-fourth class the county officers shall receive, as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum, and when a great register of voters is required by law to be made, he shall receive six hundred fifty dollars additional, which shall be in full for all services rendered in registering voters and making the great register; provided, that in any year when a primary election is held, he shall receive the sum of five hundred dollars additional, which shall be in full for all services rendered at said primary election.

2. **Sheriff.** The sheriff, six thousand dollars per annum. The sheriff shall also receive for his own use, for serving all papers issued from justices' courts, the same fees as are now or may be hereafter allowed by law to constables for like services.

3. **Recorder.** The recorder, three thousand two hundred dollars per annum.

4. **Auditor.** The auditor, eight hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, six hundred fifty dollars per annum.

7. **Assessor.** The assessor, five thousand five hundred dollars per annum.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum; and the district attorney may appoint one deputy, at a salary of six hundred dollars per annum. The deputy district attorney shall hold office at the pleasure of the district attorney. The salary

of such deputy shall be paid monthly and in the same manner as salaries of county officers are now paid.

9. **Coroner.** The coroner, such fees as are or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, four hundred dollars per annum.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum; and he shall receive and retain for his own use the sum of five dollars per diem for each and every day he attends the meetings of the county board of education, and shall also be allowed his actual and necessary traveling expenses in visiting the schools of the county.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Supervisors.** Each member of the board of supervisors shall receive for his services the sum of nine hundred dollars per annum, and the actual expenses incurred in attendance and for traveling to and from his residence to the county seat at any regular or special session of the board, and that one-twelfth of the annual salary shall be paid at the close of each monthly session of the board; and provided, further, they shall be reimbursed for necessary expenses actually incurred by attending any special session of the board. The road commissioner shall be reimbursed for all traveling, personal and other necessary expenses incurred while actually engaged in the performance of his duty upon the roads; such allowance not to exceed the sum of five dollars for each day so actually engaged, and the total amount of such allowance not to exceed the sum of three hundred dollars per annum.

14. **Justices of the peace.** From and after January 4, 1919, justices of the peace of townships containing three thousand inhabitants or more shall be allowed a salary of one thousand two hundred dollars per annum. Justices of the peace in townships containing one thousand and not more than three thousand inhabitants shall be allowed a salary of six hundred dollars per annum, and justices of the peace in townships containing not to exceed one thousand inhabitants shall be allowed a salary of sixty dollars per annum, payable monthly and in the same manner as salaries of county officers are paid, and shall be in full for all services; provided, further, that justices of the peace shall, before receiving their monthly salary file with the auditor a statement of all fees and fines received, together with the treasurer's receipt for the same. All fees and fines collected by justices of the peace shall be turned over to the county treasurer of said county; provided, that all fines collected for city offenses shall be turned over to the city treasurer of the city where the offense shall have been committed.

15. **Constables.** Constables, such fees as are now or may be hereafter allowed by law; provided, that constables of townships containing two thousand inhabitants or more shall be allowed a salary of four hundred eighty dollars per annum, payable monthly and in the same manner as county officers are paid and shall be in full for all services rendered by them in criminal cases; provided, further, that they shall be allowed all

necessary expenses actually incurred in arresting and conveying prisoners to the county jail, which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury, in addition to the monthly salaries herein allowed, each constable may receive and retain for his own use such fees as are now or may be hereafter allowed by law, for all services rendered by him in civil actions. For the purpose of regulating salaries of justices and constables, townships in this class of counties are hereby classified according to their population as shown by the federal census of nineteen hundred ten.

16. **Reporter.** In the counties of this class the official reporter of the superior court shall receive such fees as are now or may be hereafter allowed by law, and when necessary for such reporter to travel away from the county seat in the performance of his duty he shall receive his actual and necessary traveling and personal expenses, to be allowed and paid by the board of supervisors as are other county charges. [Amendment approved May 28, 1917; Stats. 1917, p. 1242.]

§ 4264. **Counties of thirty-fifth class, salaries of officers.** In counties of the thirty-fifth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum, and when a new great register of voters is required by law to be made, he shall receive five hundred dollars additional, which shall be in full for all services required in registering voters and making the great register.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum.

3. **Recorder.** The recorder, three thousand four hundred dollars per annum.

4. **Auditor.** The auditor, two thousand dollars per annum.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, one thousand eight hundred dollars per annum.

7. **Assessor.** The assessor, three thousand five hundred dollars per annum, and his actual necessary traveling expenses, when engaged in assessing the property of his county; provided, such traveling expenses shall not, in any one year, exceed the sum of three hundred dollars.

8. **District attorney.** The district attorney, two thousand three hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The county surveyor, one thousand five hundred dollars per annum, he to furnish all necessary instruments; but transportation charges for field work shall be allowed him. He shall not be required to perform county work more than two-thirds of the working days in any month, except on payment of fees now allowed by law.

13. **Justices of the peace.** Justices of the peace, the following salaries to be paid each month as county officers are paid, which shall be in full for all services rendered by them as such justices of the peace: In townships having a population of five thousand and more, one hundred dollars; in townships having a population of two thousand five hundred and less than five thousand, sixty-five dollars; in townships having a population of fifteen hundred and less than two thousand five hundred, forty dollars; in townships having a population of one thousand and less than one thousand five hundred, twenty-five dollars; in townships having a population of less than one thousand, ten dollars. Each justice must pay into the county treasury, once a month, all fees and all fines collected by him. In all townships having a population of less than five thousand, if there be more than one justice, the compensation or salary allowed herein shall be equally divided between them so that the sum total of their compensation shall not exceed the salary allowed herein for a single justice in such township.

14. **Constables.** Constables the following salaries, which shall be paid monthly as salaries of county officers are paid, and shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of two thousand five hundred or more, seventy dollars; in townships having a population of one thousand five hundred and less than two thousand five hundred, forty-five dollars; in townships having a population of one thousand and less than one thousand five hundred, thirty dollars; in townships having a population of less than one thousand, fifteen dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all the services performed by him in civil actions. In all townships having a population of less than two thousand five hundred, if there be more than one constable, the compensation herein allowed shall be equally divided between them, so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single constable in each township. The board of supervisors shall during each and every year, ascertain and determine the population of the several townships of the county for the purpose of ascertaining the compensation of township officers regulated by this section, in proportion to their duties.

15. **Supervisors.** Each supervisor, one thousand two hundred dollars per annum for all services performed by him as supervisor, member of the board of equalization and road commissioner. [Amendment approved May 28, 1917; Stats. 1917, p. 1025.]

§ 4265. **Counties of thirty-sixth class, salaries of officers.** In counties of the thirty-sixth class the county officers shall receive compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** County clerk, two thousand four hundred dollars per annum; provided, that in counties of this class, there shall be and there hereby is allowed to the county clerk one chief deputy who shall receive a salary of one thousand five hundred dollars per annum, two deputies who shall each receive a salary of one thousand dollars per annum, and in each year in which a new and complete registration of voters is required by law, he shall appoint as many deputy registration clerks as may be necessary for the convenient registration of the voters of the county, which deputy registration clerks shall receive as compensation for their services a sum of ten cents per name for each and every voter registered by them, and also one additional deputy to compile the great register and for mailing sample ballots, at a compensation not to exceed two hundred fifty dollars for each such registration year.

2. **Sheriff.** Sheriff, three thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the sheriff, one undersheriff, whose salary is hereby fixed in the sum of one thousand eight hundred dollars per annum; one deputy who shall be jailer and who shall receive a salary of one thousand two hundred dollars per annum; one deputy who shall be court bailiff and who shall receive a salary of one thousand two hundred dollars per annum; one deputy who shall also be a chauffeur and who shall receive a salary of one thousand two hundred dollars per annum; and two other deputies who shall receive a salary of one thousand two hundred dollars per year each.

3. **Recorder.** Recorder, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be, and is hereby allowed the recorder one deputy at a salary of one thousand five hundred dollars per annum, and two deputies for twelve months in each year at one hundred dollars each per month, and as many copyists as may be required who shall receive as compensation the sum of five cents per folio for recording, copying and comparing any instrument or notice, except maps or plats, and for copies of any record or paper, five cents per folio. The salaries of all copyists herein provided for shall be paid by the county in monthly installments at the same time, and in the same manner, and out of the same fund that the salary of the county recorder is paid.

4. **Auditor.** Auditor, two thousand four hundred dollars per annum; provided, that there is hereby allowed to the auditor one deputy who shall receive a salary of one thousand five hundred dollars per annum, one deputy at one thousand eighty dollars per annum, and one additional deputy for not more than two months in each year who shall receive ninety dollars per month.

5. **Treasurer.** Treasurer, two thousand four hundred dollars per annum.

6. **Tax collector.** Tax collector, two thousand four hundred dollars per annum; one chief deputy for ten months of each year who shall receive a salary of one hundred twenty-five dollars per month and three deputies for four months of each year who shall receive salaries of ninety dollars per month each.

7. **Assessor.** Assessor, two thousand four hundred dollars per annum; one chief deputy for ten months in each year who shall receive a salary

of one hundred fifty dollars per month; one stenographer and roll writer for eight months in each year who shall receive a salary of one hundred twelve and fifty hundredths dollars per month; one deputy for writing plat-books four months in each year, who shall receive a salary of one hundred twenty-five dollars per month; three deputies for four months in each year who shall receive a salary of one hundred dollars per month; five field deputies for three months in each year, who shall receive a salary of one hundred fifty dollars each, per month; and one field deputy for three months in each year who shall receive a salary of one hundred seventy-five dollars per month; and two field deputies for three months in each year, who shall each receive a salary of one hundred twenty-five dollars per month; all of said field deputies shall pay their own expenses. It is hereby provided that in counties of this class the assessor shall receive no fees or compensation for his collection of taxes on personal property or possessory interests.

8. **District attorney.** District attorney, three thousand dollars per annum; one deputy who shall receive a salary of one thousand eight hundred dollars per annum; one stenographer who shall receive a salary of one thousand two hundred dollars per annum. It shall be the duty of this stenographer to report and transcribe, without any additional charge, all preliminary hearings required of him by the district attorney.

9. **Coroner.** Coroner, such fees as are now, or may be hereafter, allowed by law.

10. **Public administrator.** Public administrator, such fees as are now, or may be hereafter allowed by law.

11. **Superintendent of schools.** Superintendent of schools, two thousand four hundred dollars per annum; and one deputy who shall receive a salary of one thousand two hundred dollars per annum; provided, that in counties of this class the superintendent of schools shall receive no compensation for services as a member of the county board of education or as ex-officio secretary thereof.

12. **Surveyor.** Surveyor, one thousand five hundred dollars per annum; which shall be in full for all services required of him by the superior court or board of supervisors, or assessor. It shall be his duty on demand of the assessor, to prepare any and all maps, plats or block-books for the use of the county assessor.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them: in townships having a population of more than five thousand, one hundred dollars per month; in townships having a population of less than five thousand and more than two thousand, seventy-five dollars per month: in townships having a population of less than two thousand, twenty dollars per month. It is hereby found as a fact that the salaries provided for in this subdivision do not work an increase in compensation, and the same shall apply immediately to incumbents.

14. **Constables.** Constables shall receive the following monthly salaries to be paid each month in the same manner and out of the same

fund as county officers are paid, which shall be in full for all services rendered by them: in townships having a population of more than two thousand, seventy-five dollars per month; in townships having a population of less than two thousand, twenty dollars per month. Constables shall cooperate at all times with the sheriff, and shall perform any and all duties that he may require of them. It is hereby found as a fact, that the salaries provided for in this subdivision do not work an increase in compensation, and the same shall apply immediately to incumbents.

15. **Population of townships.** For the purpose of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors by multiplying by four the vote cast for governor in each township at the general election next preceding.

16. **Supervisors.** Each supervisor, one thousand two hundred dollars per annum, which shall be in full for all services as supervisor and road commissioner for each year.

17. **Horticultural commissioner.** Horticultural commissioner, one thousand five hundred dollars per annum; provided, in counties of this class, said horticultural commissioner may appoint as many inspectors as may be necessary for the performance of his duties, who shall be paid three dollars and fifty cents for each day of eight hours actually engaged in the performance of their duties.

18. **Physician.** County physician, seventy-five dollars per month.

19. **Health officer.** County health officer, seventy-five dollars per month; provided, that in counties of this class there shall be and hereby is allowed the health officer, two deputies, each of whose salaries shall be one hundred fifty dollars per month, said deputies to pay all their own expenses.

20. **Live stock inspector.** Live stock inspector, who shall be ex officio county veterinarian, one thousand eight hundred dollars per annum; provided, that in counties of this class the live stock inspector shall devote his entire time to the performance of the duties of the office; provided, further, that in counties of this class the live stock inspector shall be and hereby is allowed three deputies who shall each receive as salaries six hundred dollars per annum.

21. **Probation officer.** Probation officer, one thousand two hundred dollars per annum.

22. **Jurors.** In counties of this class, grand jurors and trial jurors in criminal cases shall receive as compensation for each day's attendance on the grand jury, the superior court or justice court, the sum of three dollars per day, and for each mile actually and necessarily traveled from their residence in attending court or grand jury, in coming only, the sum of fifteen cents per mile; such mileage to be allowed but once during each session said jurors are required to attend. [Amendment approved April 16, 1917; Stats. 1917, p. 122.]

§ 4266. Counties of thirty-seventh class, salaries of officers. In counties of the thirty-seventh class the county officers shall receive as com-

pensation for the services required of them by law or by virtue of their office the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand three hundred dollars per annum; in counties of this class the county clerk may appoint a deputy, which office of deputy county clerk is hereby created, and said deputy shall receive as compensation for his services the sum of one thousand two hundred dollars per annum, to be paid out of the county treasury in equal monthly installments in the same manner and at the same time other county officials are paid.

2. **Sheriff.** The sheriff, four thousand eight hundred dollars per annum, and all mileage now allowed by law.

3. **Recorder.** The recorder, two thousand two hundred dollars per annum; provided, that in counties of this class, the recorder shall be allowed to appoint two deputies, one of which shall be allowed a salary of nine hundred dollars per annum and one a salary of six hundred dollars per annum, and the offices of said deputy recorders are hereby created.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum, and such fees and commissions as are now or may hereafter be allowed by law; and shall be allowed one or more deputies, to be appointed by said tax collector, which offices are hereby created; provided, that the compensation of said deputy or deputies shall not exceed in the aggregate the sum of nine hundred seventy-five dollars in any one year. The salaries of the deputies herein provided for shall be paid by the county, at the same time and out of the same fund as the salary of the tax collector is paid.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum; provided, that the assessor shall be entitled to receive and retain for his own use four per cent only on personal property tax collected by him as authorized by section three thousand eight hundred twenty of the Political Code; and provided further, that the assesor shall be allowed to appoint two deputies, one of which shall be allowed a salary of one hundred fifty dollars per month; provided, said deputy shall not be employed for more than five months during any one year, and one deputy at a salary of one hundred dollars per month; provided, said deputy shall not be employed for more than four months during any one year. The salaries of all deputies herein provided shall be paid by the said county in equal monthly installments at the same time and in the same manner as county officers are paid. The assessor shall also be allowed for himself and deputies the sum of three hundred dollars per annum and no more, for traveling expenses while on official business connected with the duties of his office within his county. All claims for traveling expenses incurred by the assessor or his deputies while in the performance of their official duties within the county shall be paid out of the general fund of said county on duly verified claims filed with the

board of supervisors at the same time and in the same manner as other county claims.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum, and there is hereby created a new office to be known as stenographer to the district attorney, who shall receive a salary of six hundred dollars per annum, payable monthly at the same time and in the same manner as the salaries of the county officials are paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum and actual traveling expenses, when visiting the schools of his county. The superintendent shall be allowed one deputy, which said deputy shall be allowed a salary of fifty dollars per month, to be paid at the same time and in the same manner as other county officials.

12. **Surveyor.** The surveyor, one thousand five hundred dollars per annum, which shall be in full for all services required of him by the superior court or the board of supervisors; provided, that he shall be entitled to receive from the county his actual expenses incurred in the performance of any order of the court or the board of supervisors; provided, further, that whenever the surveyor is directed by the board of supervisors to plat, trace or otherwise prepare maps, plats or block-books for the use of the county assessor, or tax collector, he shall be allowed only the actual cost of preparing same.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries to be paid each month and in the same manner and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them in criminal cases; in townships having population of more than four thousand, fifty dollars per month; in townships having population less than four thousand and more than one thousand two hundred, forty dollars per month; in townships having population of less than one thousand two hundred and more than eight hundred, thirty dollars per month; in townships having population of less than eight hundred, twenty dollars per month; and in civil cases such fees as are or may be hereafter allowed by law.

14. **Constables.** Constables shall receive the following monthly salaries to be paid each month and in same manner and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them in criminal cases; in townships having a population of more than four thousand, fifty dollars per month; in townships having population of less than four thousand and more than one thousand two hundred, forty dollars per month; in townships having a population of less than one thousand two hundred and more than eight hundred, thirty dollars per month; in townships having a population of less than eight hundred, twenty dollars per month; and in all civil cases such fees as are now or may be hereafter allowed by law. Constables shall also be allowed by the board of supervisors in criminal cases only,

necessary traveling expenses, and necessary expense of conveying criminals and persons charged with crime.

15. **Supervisors.** Each supervisor, one thousand two hundred dollars per annum, which shall be in full for all services as supervisors and road commissioners; and there shall be allowed to each supervisor necessary traveling expenses when strictly on county business without the county.

16. **Population of townships.** For the purpose of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors by multiplying by five the registered vote in each township on the first day of June, 1913.

17. **Fees of jurors.** The fees of grand jurors and trial jurors in the superior court of said counties of the thirty-seventh class, shall be three dollars per day for each day's attendance and mileage, to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor on the written order of the judge of the court in which the juror was in attendance, and the treasurer of said county shall pay such warrants.

18. **Salaries monthly.** All salaries provided for, in this article shall be paid out of the treasury of the county, in monthly installments.

The act amending § 4266 of the Political Code also contained the following provision:

§ 2. **In effect, when.** As to subdivisions one, three, six, and seven, this act shall take effect ninety days after the adjournment of the legislature; as to all other subdivisions thereof it shall not take effect until the expiration of the present terms of the officers hereinbefore enumerated. [Amendment approved May 28, 1917; Stats. 1917, p. 985.]

§ 4267. **Counties of thirty-eighth class, salaries of officers.** In counties of the thirty-eighth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum and the said county clerk may appoint one deputy county clerk, which said office of deputy county clerk is hereby created. The salary of such deputy county clerk is hereby fixed at one thousand five hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

2. **Sheriff.** The sheriff, four thousand dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.

3. **Recorder.** The recorder, one thousand five hundred dollars per annum; and the said recorder may appoint one deputy recorder, which said office of deputy recorder is hereby created. The salary of such deputy recorder is hereby fixed at one thousand two hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

4. **Auditor.** The auditor, one thousand dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum; and the said treasurer may appoint one deputy treasurer, which said office of deputy treasurer is hereby created. The salary of such deputy treasurer is hereby fixed at six hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

6. **Tax collector.** The tax collector, one thousand dollars per annum, which shall be in full for all services as tax collector and as license collector.

7. **Assessor.** The assessor, two thousand five hundred dollars per annum. The said assessor may appoint one office deputy assessor, which said office of deputy assessor is hereby created, who shall serve as such only during five months of each calendar year. Said office deputy assessor shall receive a salary of one hundred dollars per month, payable during the period of said services, at the same time and in the same manner as the salary of county officers is paid. The said assessor may also appoint one additional deputy assessor, who shall be designated as a "field deputy assessor," which said office of "field deputy assessor" is hereby created, who shall serve as such only during five months of each calendar year. Said "field deputy assessor" shall receive a salary of one hundred dollars per month payable during the period of such service, at the same time and in the same manner as the salary of county officers is paid.

8. **District attorney.** The district attorney, two thousand dollars per annum. Said district attorney may appoint one clerk to the district attorney, which said office of clerk to the district attorney is hereby created. Said clerk to the district attorney shall receive a salary of fifty dollars per month, payable at the same time and in the same manner as the salary of county officers is paid.

9. **Coroner.** The coroner, nine hundred dollars per annum, and his actual traveling and other expenses while performing the duties of his office.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, one thousand two hundred dollars per annum; and in addition thereto, he shall receive his actual traveling and other necessary expenses incurred by him while engaged in work for the county.

13. **Township officers.** In counties of this class the township officers shall receive the following compensation, to wit:

In townships having a population of three thousand or more, justices of the peace shall receive a monthly salary of one hundred dollars per month; constables in townships of this population shall receive a salary of sixty dollars per month.

In townships having a population of one thousand five hundred and less than three thousand, the justices of the peace and constables shall each receive a monthly salary of forty-five dollars per month.

In townships having a population of eight hundred and less than one thousand five hundred, the justices of the peace and constables shall each receive a monthly salary of thirty-five dollars per month.

In townships having a population of five hundred and less than eight hundred, the justices of the peace and constables shall each receive a monthly salary of twenty dollars per month.

In townships having a population of less than five hundred, the justices of the peace and constables shall each receive a monthly salary of ten dollars per month.

The above named salaries shall be in full compensation for all services of said justices of the peace and constables in civil and criminal cases; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as they are now or may be hereafter allowed by law, for transporting prisoners to the county jail, and actual expenses of such transportation; and provided, further, that for the purpose of this subdivision, the population of the several townships shall be ascertained by multiplying the number of registered voters at the general election of 1914 by three.

14. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum, and mileage when acting as road commissioner, twenty-five cents per mile one way; provided, the amount of mileage shall not exceed the sum of three hundred dollars in any one year. [Amendment approved May 28, 1917; Stats. 1917, p. 1110.]

§ 4268. **Counties of thirty-ninth class, salaries of officers.** In counties of the thirty-ninth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum, and during each year in which a general election is held throughout the state he shall in addition to said salary receive each month for the months of August, September, October and November, one hundred dollars, and the same shall be so paid from the same fund as other salaries are paid.

2. **Sheriff.** The sheriff, four thousand dollars per annum, and the fees, mileage and commissions for the service of all papers issued by any court of the state outside of this county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county.

3. **Recorder.** The recorder, one thousand eight hundred dollars per annum; provided, that said recorder shall collect and pay into the county treasury for the use and benefit of the county all fees required by law to be collected by him; and provided, further, that in counties of this class the recorder shall be allowed an assistant, who shall be appointed

by the recorder and who shall receive a salary of fifty dollars per month, which said salary shall be paid by said county at the time and in the same manner and out of the same fund as is the salary of the recorder.

4. **Auditor.** The auditor, one thousand five hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand eight hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand seven hundred fifty dollars per annum, which shall be in full for all services as tax collector and as license collector.

7. **Assesssor.** The assessor, three thousand dollars per annum; provided, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor of said county, whose salary is hereby fixed at the sum of one hundred dollars per month; which said salary shall be paid by said county at the time and in the same manner and out of the same fund as is the salary of the assessor; and provided, further, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor of said county and who shall hold office from twelve o'clock meridian of the first Monday of March of each year up to twelve o'clock meridian of the first Monday of July of each year. The salary of said last-mentioned deputy assessor herein provided for is hereby fixed at the sum of one hundred dollars per month during which months he shall hold office as herein provided; which said salary shall be paid by said county at the time and in the same manner and out of the same fund as is the salary of the assessor.

8. **District attorney.** The district attorney, one thousand eight hundred dollars per annum; provided, that in counties of this class the district attorney may appoint a stenographer or clerk who shall receive a salary of six hundred dollars per annum, to be paid in equal monthly installments in the same manner, at the same time and out of the same fund as is the salary of the district attorney.

9. **Coroner.** The coroner, nine hundred dollars per annum.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses while visiting the schools of his county, he to devote all of his time to the duties of his office.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs a surveyor or civil engineer; and provided, further, that it shall be the duty of the board of supervisors of counties of this class to so employ him.

13. **Supervisors.** Supervisors, each the sum of one thousand dollars per annum for all services performed by them, as supervisors, and members of the board of equalization and road commissioners; provided, that each supervisor shall receive ten cents for each mile traveled by the

ordinary route, in going from his residence to the county seat and returning, once during each month; and the supervisors in counties of this class be allowed their traveling expenses in viewing and laying out roads and bridges and in attending to such other duties within their county as required by law.

14. **Justices of the peace.** For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population as shown by the federal census of nineteen hundred ten; townships having a population of two thousand four hundred and over four thousand shall be classified as townships of the first class, and townships having a population of less than two thousand four hundred shall belong to and be known as townships of the second class.

15. **Justices of the peace.** In townships of the first class, justices of the peace shall receive eighty dollars per month to be paid each month ont of the same fund and at the same time as the county officers are paid, and which sum shall be in full compensation for all services rendered by them.

In townships of the second class, justices of the peace shall receive seventy-five dollars per month to be paid each month out of the same fund and at the same time as the county officers are paid and which sum shall be in full compensation for all services rendered by them.

16. **Constables.** Constables in counties of this class shall receive the following monthly salaries to be paid each month out of the same fund and at the same time as the county officers are paid, which sum shall be in full compensation for all services rendered by them in criminal cases, the same to include all costs of transportation of all prisoners within the county, to wit: Constables in townships of the first class shall receive a monthly salary of seventy-five dollars per month, and constables of townships of the second class shall receive a monthly salary of sixty dollars per month; provided, further, that when any constable is required to serve a warrant of arrest or any other paper of a criminal case he shall be allowed mileage both going and coming, at the rate of ten cents per mile, but shall not be allowed any sum for any other expenses.

17. **Reporter.** In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, such fees as are now or may be hereafter provided by law; said compensation for per diem and transcription in criminal cases to be audited and allowed upon a written order of the court, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

18. **Jurors.** In counties of this class, grand jurors and jurors in the superior court in criminal and civil cases shall be paid three dollars per day for each day's attendance, and for each mile actually traveled in attending court as such juror under summons or under order of court,

in going only, twenty-five cents; and in criminal cases, the county clerk shall certify to the auditor the number of days attendance and the number of miles traveled by each such juror, and the auditor shall then draw his warrant for the fees and mileage due such juror, and the treasurer shall pay the same.

19. **Witnesses.** In counties of this class, witnesses, when legally required to attend upon the superior court, in criminal cases, shall be paid two dollars per day for each day's actual attendance, and twenty-five cents per mile for each mile actually traveled, in going only; and in criminal cases the county clerk shall certify to the auditor the number of days attendance and the number of miles traveled by each such witness, and the auditor shall then draw his warrant for the fees and mileage due such witness, and the treasurer shall pay the same. [Amendment approved May 28, 1917; Stats. 1917, p. 1141.]

§ 4268a. **Fees of jurors and witnesses, counties of thirty-ninth class.** In counties of the thirty-ninth class, jurors and witnesses shall receive the following fees and mileage:

In criminal cases the county clerk shall, daily, during the attendance of each juror or witness, make his certificate as to such attendance (the certificate as to the first day's attendance of such juror or witness, to cover and include the number of miles traveled by such juror or witness); and the auditor shall, daily, upon the request of such juror or witness draw his warrant in favor of such juror or witness for the sum named in such certificate, and the treasurer shall pay the same;

For attending as a grand juror for each day's actual attendance, per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, such mileage to be paid at the time that the fee for the first day's attendance is paid;

For attending as a trial juror in criminal cases, for each day's actual attendance, per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, such mileage to be paid at the time that the fee for the first day's attendance is paid;

For attending as a witness in criminal cases, for each day's actual attendance, per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, such mileage to be paid at the time that the fee for the first day's attendance is paid. [New section added May 28, 1917; Stats. 1917, p. 1140.]

§ 4271. **Counties of forty-second class, salaries of officers.** In counties of the forty-second class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed the county clerk the following deputies, who shall be appointed by the county clerk, and shall be paid salaries as follows: one deputy clerk at a salary of one hundred twenty-five dollars per month, and one deputy county clerk at a salary of seventy-five dollars per month. The salaries of said deputy county clerks shall be paid in

monthly installments at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid; provided, further, that in counties of this class, in each year in which a new and complete or supplemental registration of voters is required by law, the county clerk shall appoint as many deputy registration clerks as may be necessary for the convenient registration of voters of the county, which deputy registration clerks shall receive as compensation for their services the sum of ten cents per name for each and every voter registered by them; said compensation to be paid out of the general fund of the county, on the presentation and filing with the board of supervisors of the county of a duly verified claim therefor, approved by the county clerk.

2. **Sheriff.** The sheriff, five thousand dollars per annum and such mileage as is allowed by law for service of all papers wherever issued by any court outside this county and all mileage for service of paper in civil cases in his own county and actual expenses incurred in criminal cases; provided, further, that in counties of this class there shall be and is hereby allowed to the sheriff one deputy who shall be appointed by the sheriff and shall be paid a sum of one hundred dollars per month, which said sum shall be paid by said county in equal monthly installments at the same time and in the same manner as the salary of the sheriff is paid.

3. **Recorder.** The recorder, two thousand one hundred dollars per annum; provided, further, that in counties of this class there shall be and is hereby allowed to the recorder, one deputy recorder who shall be appointed by the recorder and shall be paid a sum of one hundred dollars per month; also, an additional deputy recorder who shall be appointed by the recorder and who shall be paid a salary of seventy-five dollars per month, which said sum shall be paid by said county in equal monthly installments at the same time, in the same manner and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, the sum of two thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the auditor one deputy auditor which said office is hereby created who shall be appointed by the auditor and shall be paid a salary of seventy-five dollars per month, which sum shall be paid by said county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the auditor.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the tax collector one deputy tax collector, which office is hereby created, said deputy tax collector to be appointed by the tax collector and to be paid a salary of seventy-five dollars per month, which said sum shall be paid by the county in monthly installments at the same time, in the same manner and out of the same fund as the salary of the tax collector is paid.

7. **Assessor.** The assessor, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be one deputy

assessor, who shall be appointed by the assessor and shall receive as compensation, for all services performed by him the sum of one hundred dollars per month; and provided, further, that the assessor may appoint such additional deputies as may be required in the judgment of the assessor, the length of time that such deputies shall serve in any one year not to exceed, in the aggregate, three hundred twelve days, and the aggregate compensation to be paid all of said deputies not to exceed in any one year the sum of one thousand two hundred forty-eight dollars, which shall be paid out of the county treasury in the same manner, at the same time and out of the same funds as the salaries of other county officers are paid; provided, further, that the assessor may appoint one copyist, to be paid a compensation of three dollars per day for a period not to exceed four months in any one year, and such allowance shall be made as other claims are allowed by the board of supervisors, and when so allowed shall be paid out of the salary fund.,

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum; provided, the district attorney may appoint a stenographer, whose compensation shall be seventy-five dollars per month, and such allowance shall be made as other claims are allowed by the board of supervisors, and when so allowed shall be paid out of the salary fund.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the superintendent of schools a deputy who shall be appointed by the superintendent of schools and paid a salary of five hundred dollars per annum, said salary to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

12. **Surveyor.** The surveyor, ten dollars per day when engaged in county work. He shall also receive his actual expenses when at work in the field.

13. **Township officers.** In counties of this class, the township officers shall receive the following compensation for all services rendered by them in criminal matters of whatever kind, character or description: In townships having a population of five thousand or more, justices of the peace and constables shall receive a monthly salary of one hundred twenty-five dollars, to be paid each month in the same manner and out of the same fund as the salaries of county officers are paid. In townships having a population of less than five thousand, said justices of the peace shall receive a salary of six hundred dollars per annum, and constables shall receive a salary of four hundred eighty dollars per annum, to be paid in monthly installments.

14. **Supervisors.** Each member of the board of supervisors, one thousand eight hundred dollars per annum, in full payment for services as member of the board of supervisors, as member of the board of equalization and as road commissioner, and twenty-five cents per mile while traveling from his residence to the county seat not more than once each month. It is hereby found as a fact that the changes provided for in this subdivision do not work an increase in compensation of this office, and it is intended that the same shall apply immediately to the present incumbents.

15. **Reporter.** In counties of this class, the official reporter of the superior court shall receive such fees as are now or may hereafter be allowed by law. The compensation allowed each officer above enumerated shall be in full payment for all services performed by him. [Amendment approvedd May 28, 1917; Stats. 1917, p. 992.]

§ 4272. **Counties of forty-third class, salaries of officers.** In counties of the forty-third class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand nine hundred twenty dollars per annum, and such fees as he may be now or hereafter allowed by law to retain; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one deputy clerk, who shall be appointed by the county clerk and shall be paid a salary as follows: the sum of one thousand two hundred dollars per annum, which sum shall be paid by the said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid.

2. **Sheriff.** The sheriff, three thousand five hundred dollars per annum. The sheriff shall also receive for his own use and benefit all fees, commissions and mileage, in all civil cases within his county, and all fees, commissions and mileage for service of any papers issued by any court outside of his county.

3. **Recorder.** The recorder, one thousand two hundred dollars per annum, and such fees as he may be now or hereafter allowed by law to retain. The board of supervisors is hereby authorized to employ such number of copyists at such salaries and for such length of time as the said board may deem necessary to properly and expeditiously record all instruments and documents filed for record in the office of the county recorder of such county, and the salary of such copyist or copyists shall be paid out of the general fund of said county.

4. **Auditor.** The auditor, six hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred sixty dollars per annum.

6. **Tax collector.** The tax collector, seven hundred dollars per annum.

7. **Assessor.** The assessor, two thousand four hundred dollars per annum. He shall also be permitted to appoint such deputies as he may

desire, of whom one shall be paid by the county for the term of six months, beginning on the first Monday in January in each year at the rate of one hundred dollars per month, and one of whom shall be paid by the county for the term of four months, beginning on the first Monday in March in each year, at the rate of one hundred dollars per month, and one of whom shall be paid by the county at the rate of one hundred dollars per month for the term of two months, said term beginning on the first Monday of March of each year. The board of supervisors shall allow the assessor to appoint extra deputies, other than as above provided, in the ratio of one for every three hundred assessment statements, or major fraction thereof in excess of two thousand eight hundred statements, and said extra deputies shall each serve four months in each year, at the will of the assessor, and shall be paid each one hundred dollars per month. All salaries of deputies as above provided, shall be paid in the same manner and at the same time as the salary of the assessor is paid. All commissions allowed by law to the assessor for the collection of poll tax, road poll, personal property or special taxes, shall be paid into the county treasury by the assessor, monthly as collected, for the use of the county, and shall be apportioned by the auditor and the treasurer to the salary fund.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them. In townships having a population of more than four thousand, ninety dollars per month; in townships having a population of less than four thousand and more than two thousand three hundred, seventy-five dollars per month; in townships having a population of less than two thousand three hundred and more than one thousand five hundred, thirty dollars per month; in townships having a population of less than one thousand five hundred and more than six hundred, twenty dollars per month; in townships having a population of less than six hundred, fifteen dollars per month. The compensation herein fixed for justices of the peace shall be in full for all services rendered, and all fees collected by them shall be paid into the county treasury as provided by law.

14. **Constables.** Constables shall receive the following monthly salaries to be paid each month, and in the same manner and out of the

same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than four thousand, thirty-five dollars per month; in townships having a population of less than four thousand and more than two thousand, fifteen dollars per month; in townships having a population of less than two thousand, ten dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. **Supervisors. Traveling expenses.** Each supervisor, nine hundred dollars per annum, and twenty cents per mile for traveling expenses from his residence to the county seat, and also necessary expenses when on official business outside of the county.

16. **Board of education.** Each member of the county board of education, including the secretary, shall receive one hundred fifty dollars per annum as compensation for his services on the board of education, and mileage at the rate of twenty cents per mile, one way, from his residence to the place of meeting of said board. Said compensation of said members and of said secretary shall be paid monthly in the same manner and out of the same fund as the salaries of other county officers are paid. Claims for such mileage shall be presented to and allowed by the board of supervisors before payment. The compensation of the members of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred seventy.

17. **Population of townships.** For the purposes of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors, by multiplying by five the vote for presidential electors cast in each township at the next preceding election. [Amendment approved April 16, 1917; Stats. 1917, p. 130.]

§ 4275. **Counties of forty-sixth class, salaries of officers.** In counties of the forty-sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

(a) **County clerk.** The county clerk, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the county clerk one deputy who shall receive a salary of one thousand dollars per annum, and one deputy who shall receive a salary of eight hundred dollars per annum; the deputies herein provided for shall be appointed by the county clerk, and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the county clerk is paid. All fees collected by the clerk as are now or may hereafter be required by law shall by him be paid into the county treasury.

(b) **Sheriff.** The sheriff, five thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county; also, his actual and necessary traveling expenses in the execution of a warrant outside of his county issued by a court or magistrate of his county.

(c) **Recorder.** The recorder, one thousand four hundred forty dollars per annum, and, in addition thereto, all fees which said recorder is now or may hereafter be entitled to receive as such recorder, or which are now or may hereafter be required by law to be collected by said recorder.

(d) **Auditor.** The auditor, one thousand five hundred dollars per annum.

(e) **Treasurer.** The treasurer, two thousand four hundred dollars per annum; provided, that all commissions and fees required or permitted by any law of this state or of the United States to be collected by the treasurer either as an officer or ex officio officer, his deputies or assistants, for the performance of any official duty, shall be collected for the benefit of the county and shall be paid into the general fund of the county monthly.

(f) **Tax collector.** The tax collector, one thousand five hundred dollars per annum.

(g) **Assessor.** The assessor, four thousand dollars per annum; provided, that said assessor shall be entitled to receive and retain for his own use four per cent only on personal property tax collected by him as authorized by section three thousand eight hundred twenty of the Political Code of the state of California.

(h) **District attorney.** The district attorney, three thousand dollars per annum; provided, that said officer shall refrain from the private practice of law; provided, further, that in counties of this class, there shall be and is hereby allowed to the district attorney a stenographer or office clerk, to be appointed by the district attorney, who shall receive a salary of six hundred dollars per annum, to be paid in equal monthly installments, at the same time, in the same manner and out of the same funds as the salary of the district attorney is paid.

(i) **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

(j) **Public administrator.** The public administrator such fees as are now or may be hereafter allowed by law.

(k) **Superintendent of schools.** The superintendent of schools, two thousand seven hundred dollars per annum and traveling expenses while visiting schools of his county; and for services as secretary of the board of education he shall receive five dollars per day for each day said board is in session.

(l) **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

(m) **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same

manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population less than five hundred, twenty dollars per month.

(n) **Constables.** Constables shall receive the following monthly salaries to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, twenty dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases each constable shall receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

(o) **Supervisors.** Supervisors the sum of one hundred twenty-five dollars per month each; mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties, either as road commissioner or supervisor, not exceeding in the aggregate two hundred fifty dollars per annum. Supervisors shall also receive their necessary expenses when the performance of duty as supervisor or road commissioner takes them out of the county.

(p) **Reporters.** The official reporters, same as now provided by law.

(q) **Jurors.** In counties of this class grand jurors and trial jurors in the superior court shall receive for each day's attendance the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat, the sum of fifteen cents; such mileage to be allowed but once during each session such jurors are required to attend.

(r) **Construction of act.** It is hereby declared that nothing herein contained constitutes an increase in compensation of any of the officials mentioned herein and this act shall take effect in accordance with the provisions of section one of article four of the constitution. [Amendment approved June 1, 1917; Stats. 1917, p. 1605.]

§ 4276. **Counties of forty-seventh class, salaries of officers.** In counties of the forty-seventh class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand five hundred dollars per annum; provided, that in counties of this class, there shall be a deputy county clerk, who shall be appointed by the county clerk, whose salary shall be, per annum, a sum not to exceed nine hundred dollars; which salary shall be fixed by said county clerk, and which said salary

shall be paid by said county at the time and in the same manner and out of the same fund as the salary of the county clerk.

2. **Sheriff.** The sheriff, five thousand dollars per annum and mileage for service of any and all processes required by law to be served by him, at the rate of ten cents per mile for every mile necessarily traveled in the performance of such duty, and for service of all processes issued from all courts outside of his county; the sheriff to pay all salaries of his deputies.

3. **Recorder.** The recorder, one thousand six hundred dollars per annum; provided that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law.

4. **Auditor.** The auditor, one thousand five hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand five hundred dollars per annum.

7. **Assessor.** The assessor, two thousand one hundred dollars per annum.

8. **District attorney.** The district attorney, two thousand one hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand five hundred dollars per annum.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of the peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered, as hereinafter provided: In townships having a population of three thousand or more, fifty dollars per month, which said salary shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases, and all such fees as are allowed by law in civil cases shall be paid by said justices of the peace into the county treasury, as the fees of county officers are paid in. In townships having a population under three thousand, twenty-five dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may hereafter be allowed by law. In townships having a population of not less than one thousand and under two thousand, twenty dollars per month, which shall be in full

compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases such fees as are now or may be hereafter allowed by law. In townships having a population of less than one thousand, fifteen dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law.

15. **Supervisors.** Each member of the board of supervisors, six hundred dollars per annum; thirty cents per mile one way in attending the meetings of the board. Three dollars per day when actually serving as road commissioner, not to exceed three hundred dollars per annum.

16. **Reporter.** In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in criminal cases in said court, before the grand jury, for preliminary examinations, and for coroners' inquests, a monthly salary of seventy-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of the county officers are paid, and shall receive as compensation for taking notes, when required, in civil cases a per diem of ten dollars, to be paid by the litigants as the court may direct; and for transcription of said notes, when required, the sum of fifteen cents per folio for the original, and five cents per folio for each copy thereof; said compensation for transcription in criminal cases and coroners' inquests to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases to be paid by the party ordering the same, or when ordered by the judge, by either party, or by both or all parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside the county seat.

17. **Population of townships.** The board of supervisors shall determine the population of each township for the purpose of fixing the salary of the township officers aforesaid. [Amendment approved May 28, 1917; Stats. 1917, p. 1107.]

§ 4276a. Fees of jurors and witnesses, counties of forty-seventh class. In counties of the forty-seventh class, jurors and witnesses shall receive the following fees and mileage:

Jurors. For attending as a grand juror, for each day's actual attendance, per day, three dollars, and twenty cents per mile for each mile actually traveled, in going only; for attending as a trial juror in the superior court in civil and criminal cases, for each day's actual attendance, per day, three dollars, and twenty cents per mile for each mile actually traveled, in going only; for attending as a trial juror in the justice's court, in civil cases only, for each day's actual attendance, per day, two dollars, and twenty cents per mile for each mile actually traveled, in going only.

The fee of such jurors shall be paid to them, respectively, on each day during the period of their attendance, if demanded, and the mileage herein provided for shall be paid at the time the fee for the first day's attendance is paid.

Witnesses. For each day's actual attendance when legally required to attend upon the superior court, per day, three dollars, and twenty cents per mile for each mile actually traveled, in going only; and for each day's actual attendance when legally required to attend upon the justice's court, in civil cases only, per day, two dollars, and twenty cents per mile for each mile actually traveled, in going only. Witnesses in criminal cases shall be paid their fees and mileage, as in this section provided, immediately upon their being discharged by the court. Witnesses in civil cases may demand the payment of their fees and mileage for one day, in advance, and when so demanded shall not be compelled to attend until the same shall have been paid. [New section added May 28, 1917; Stats. 1917, p. 1109.]

§ 4277. Counties of forty-eighth class, salaries of officers. In counties of the forty-eighth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their officers, the following compensation and salaries, to wit:

1. **County clerk.** The county clerk, two thousand dollars per annum.

2. **Sheriff.** The sheriff, three thousand five hundred dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.

3. **Recorder.** The recorder, one thousand five hundred dollars per annum; and the said recorder may appoint one deputy recorder, which said office of deputy recorder is hereby created. The salary of such deputy recorder is hereby fixed at one thousand dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

4. **Auditor.** The auditor, five hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand two hundred dollars per annum.

6. **Tax collector.** The tax collector, eight hundred dollars per annum, which shall be in full for all services as tax collector and license collector; provided, that in counties of this class there shall be one deputy tax collector who shall be appointed by the tax collector of said county, and shall receive a salary of nine hundred dollars per annum, payable at the same time and in the same manner as the salary of the county officers is paid.

7. **Assessor.** The assessor, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be one chief deputy assessor and one deputy assessor, who shall be appointed by the assessor of said county. Said deputy assessor shall serve as such only during the months of March, April, May and June of each year and shall receive a salary of one hundred dollars per month, payable during the period of such service, and said chief deputy assessor shall

receive a salary of one thousand two hundred dollars per year, such salaries to be payable at the same time and in the same manner as the salary of the county officers is paid.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, five hundred dollars per annum, and his actual traveling and other expenses while performing the duties of his office.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, nine hundred dollars per annum, and in addition thereto, he shall receive his actual traveling and other necessary expenses incurred by him while engaged in work for the county.

13. **Supervisors.** Each supervisor, fifty dollars per month, payable at the same time and in the same manner as other county officers are paid, and his necessary and actual expenses when attending to the business of the county by order of the board, and mileage at the rate of twenty cents per mile for traveling from his residence to the county seat to attend the sessions of the board, and mileage at the rate of twenty cents per mile one way for all actual distances traveled by him in the performance of his duties as road commissioner.

14. **Classification of townships. Justices of the peace.** In counties of this class the township officers shall receive the following compensation: For the purpose of fixing the compensation of justices of the peace and constables according to their duties townships in counties of this class are hereby classified according to their population as follows: Townships having a population of two thousand four hundred or more shall belong to and be known as townships of the first class. Townships having a population of more than one thousand two hundred and less than two thousand four hundred shall belong to and be known as townships of the second class. Townships having a population of less than one thousand two hundred shall belong to and be known as townships of the third class. Justices of the peace shall receive the following salaries: In townships of the first class forty dollars per month; in townships of the second class twenty dollars per month, and in townships of the third class fifteen dollars per month. Such salaries shall be paid in the same manner and out of the same fund as salaries of county officers are paid, and shall be compensation in full for all services rendered. All fees received by justices of the peace shall be paid into the county treasury every month.

15. **Constables.** Constables shall receive the following monthly salaries, payable at the same time and in the same manner as county officers are paid, which shall be in full for all services rendered by them in criminal actions: In townships of the first class thirty dollars per month; in townships of the second class fifteen dollars per month; in

townships of the third class fifteen dollars per month; provided, that in addition to the salary herein allowed each constable shall be paid out of the treasury of the county for traveling expenses outside of his township for service of a warrant of arrest or any other paper in a criminal case such fees as are now or may be hereafter allowed by law, and for transporting prisoners to the county jail the actual expenses for such transportation, and his actual and necessary expenses in keeping and caring for property seized by him under a writ of attachment or execution; and provided, further, that constables may retain for their own use, the fees which are now or may be hereafter allowed to them in civil cases.

16. **Population, how ascertained.** For the purposes of sections fourteen and fifteen, the population of the several townships shall be ascertained by multiplying by two and one-half the number of registered voters in each township, at the last general election preceding the fixing of this classification.

17. **Jurors.** Grand jurors and jurors in the superior court shall receive the following fees: for each day's attendance three dollars, and for each mile actually traveled in attending court as a juror, one way, fifteen cents.

18. **Incumbents.** When this law shall enter into effect it shall apply to and affect incumbents mentioned in sections seven, fourteen and fifteen hereof. [Amendment approved May 28, 1917; Stats. 1917, p. 1258.]

§ 4278. **Counties of forty-ninth class, salaries of officers.** In counties of the forty-ninth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand eight hundred dollars per annum; provided, that in counties of this class the county clerk shall be allowed a copyist, who shall be appointed by the county clerk and paid the salary of seventy-five dollars per month; said salary to be paid at the same time, in the same manner and out of the same fund as the salary of the county clerk; and provided, further, that in counties of this class, during the years when the compilation of a great register is required by law, the county clerks of the county shall be allowed the sum of ten cents per name for each affidavit legally taken for registration; said sum to be allowed and paid to said county clerks by the board of supervisors as other county charges are allowed and paid.

2. **Sheriff.** The sheriff shall receive two thousand five hundred dollars per annum, and in counties of this class, there is hereby allowed to the sheriff, one deputy, to be appointed by him, who shall receive the salary of seventy-five dollars per month, which shall be paid by the county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid.

3. **Recorder.** The recorder, one thousand dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist who shall be appointed by the recorder, and paid the salary of seventy-five dollars per month; said salary to be paid by the

said county in monthly installments, at the time and in the same manner and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, eight hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand two hundred dollars per annum, and ten per cent on all licenses collected by him as license collector; provided, that in counties of this class there shall be and is hereby allowed to the tax collector an assistant for the months of April, October and November, who shall be appointed by the tax collector and paid the salary of seventy-five dollars per month for said above-named months, said salary to be paid by the said county in monthly installments, at the time and in the same manner, and out of the same fund as the salary of the tax collector is paid.

7. **Assessor.** The assessor, one thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor two deputies, to be appointed by him, who shall receive the salary of one hundred twenty-five dollars per month each, from the first day of March to July first of each year, said salaries to be paid by said county in monthly installments, at the same time and in the same manner, and out of the same fund as the salary of the assessor is paid.

8. **District attorney.** The district attorney, one thousand eight hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand five hundred dollars per annum and actual traveling expenses when visiting the schools of his county, and the sum of five dollars per day of each day's services on the board of education; said sum, together with the traveling expenses, to be allowed and paid the same as other county charges are allowed and paid.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Justices of the peace.** Justices of the peace in counties of this class shall receive the following monthly salaries to be paid each month in the same manner, at the same time and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than one thousand, fifty dollars per month; in townships having a population of more than five hundred and less than one thousand, twenty-five dollars per month; in townships having a population of less than five hundred, ten dollars per month. The board of supervisors of said counties shall furnish and supply to the justices of the peace of the various townships in such counties the codes of the state and amendments thereto and all necessary stationery, legal blanks and forms for the proper conduct of business.

14. **Constables.** Constables shall receive the following salaries to be paid each month as salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: (1) In townships having a population of five hundred or more, twenty dollars per month; (2) in townships, having a population of less than five hundred, ten dollars per month; provided, further, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for service of a warrant of arrest or any other paper in a criminal case, such fees as are now or may be hereafter allowed by law. For serving a coroner's subpoena the same fees and mileage as are now or may hereafter be allowed by law for the service of a subpoena issued out of a justice's court. For summoning a coroner's jury the same fees as are now or may be hereafter allowed for summoning a jury in a civil action in the justice's court. For transporting prisoners to the county jail, the expenses of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fee allowed by law. For transporting prisoners to the county jail, the actual expenses of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law. It is hereby declared that the salaries provided for in this subdivision do not constitute an increase and shall apply to present incumbents.

15. **Supervisors.** Each member of the board of supervisors to receive a flat rate of eight hundred dollars per annum, in full for all services.

16. **Reporter.** In counties, of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said courts, and for preliminary examinations in justices' courts, and at coroners' inquests, a per diem of ten dollars, and for transcription of said notes when required during the progress of a trial, he shall receive the sum of twenty-five cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after the conclusion of the trial, then he shall receive the sum of ten cents per folio for original, and five cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside of the county seat.

17. **Jurors.** For attending as a grand juror or as a trial juror in the superior court, in criminal cases, four dollars per day for each day's attendance. For each mile actually traveled in attending upon the superior court, in going only, per mile, twenty-five cents; provided, that in counties of this class the grand jurors and trial jurors in criminal cases shall be paid warrants drawn by the county auditor, issued upon the order of the court, or judge thereof. [Amendment approved May 28, 1917; Stats. 1917, p. 1149.]

§ 4279. **Counties of fiftieth class, salaries of officers.** In counties of the fiftieth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand eight hundred dollars per annum and such fees as he may be by law allowed to retain; and provided, that in any year when a new register of voters is required by law said county clerk may appoint such number of deputy clerks as may be necessary for the convenience of registration of voters, each of said deputies to receive the sum of ten cents per name for each elector registered by him whose name appears on the great register at the November election. Said sum to be paid out of the general county fund, on the presentation and filing with the board of supervisors of said county a duly verified claim therefor approved by the county clerk.

2. **Sheriff.** The sheriff, two thousand four hundred dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county, and his actual and necessary traveling expenses while executing a warrant outside of his county issued by a magistrate or court within his county.

3. **Recorder.** The recorder, one thousand six hundred dollars per annum; provided, that when the amount of fees collected by said recorder in any month shall exceed the sum of one hundred dollars, the recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of one hundred dollars collected by him in such month.

4. **Auditor.** The auditor, one thousand two hundred dollars per annum, and a fee of one dollar for every redemption that is made under the provisions of section three thousand eight hundred seventeen of this code, and a commission of ten per cent on all money collected from the state of California on claims made out against the state under the provisions of section four thousand ninety-nine *a* of this code. Such fees and commissions as are herein mentioned shall be allowed the auditor by the board of supervisors out of the general county fund on claims properly presented; provided, that said fees and commissions shall not exceed the sum of three hundred dollars per annum.

5. **Treasurer.** The treasurer nine hundred dollars per annum.

6. **Tax collector.** The tax collector six hundred dollars per annum, which shall be in full for all services as tax collector and license collector.

7. **Assessor.** The assessor, one thousand eight hundred dollars per annum; provided, that the board of supervisors shall allow the traveling expenses of the assessor and his deputies, necessarily incurred in the performance of the duties of said office, not to exceed the sum of three hundred dollars per year, to be allowed and paid as other claims against the county are allowed and paid; provided, further, that the provisions herein contained for the expenses of the assessor shall apply to the incumbent.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand dollars per annum, and actual and necessary traveling expenses when visiting schools of his county. He shall also be allowed five dollars per day for acting as secretary of the board of education for each day said board is in session.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of the peace.** In counties of this class the justices of the peace shall receive the following compensation, to wit:

(a) In townships having a population of one thousand or over, the sum of three hundred dollars per annum, payable monthly.

(b) In townships having a population of less than one thousand, the sum of two hundred forty dollars per annum, payable monthly.

The above named salaries shall be in full compensation for all services of said justices of the peace in criminal and civil cases, and when acting as coroner said justices of the peace shall be allowed and paid actual expenses, which expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury. The above compensation shall be in lieu of all other fees received for services and said fees shall be accounted for to the auditor and paid into the county treasury.

The salaries of justices of the peace as herein provided for shall be paid in the same manner, at the same time, and out of the same funds as county officers are paid.

For the purpose of this subdivision the population of the several judicial townships is hereby determined to be the population of the townships as shown by the federal census taken in the year A. D. one thousand nine hundred ten.

14. **Constables.** Constables, the sum of three hundred dollars per annum, which shall be paid, in the same manner and at the same time and out of the same funds as county officers are now paid. The above compensation shall be in lieu of all other fees received for services, and said fees shall be accounted for to the auditor and paid into the county treasury; provided, the provisions hereof and herein contained shall apply to the present incumbent.

15. **Supervisors.** Each member of the board of supervisors, five dollars a day when the board is in session, and ten cents a mile, in going only, for traveling from his residence to the county seat, and when serving as road commissioner three dollars per day, and actual and necessary expenses; provided, he shall not in any one year receive more than three hundred fifty dollars as supervisor, exclusive of mileage, nor more than two hundred dollars as road commissioner, exclusive of traveling expenses.

16. **Board of education.** Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of ten cents

per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims for such service and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named and in the same manner as the claims against the county are allowed. The compensation of the members of the board of education herein provided is not in addition to that provided in section one thousand seven hundred seventy of this code.

17. **Jurors.** In counties of this class, for attending as a grand juror or as a trial juror in a criminal case in the superior court, for each day's attendance, three dollars. Such jurors shall receive for each mile actually and necessarily traveled in attending as a juror, in going and coming, fifteen cents.

18. **Witnesses.** In counties of this class witnesses shall be allowed for each day's actual attendance, when legally required to attend upon the superior court in a criminal case, three dollars, and for each mile actually and necessarily traveled as such witness, in going and coming, ten cents; provided, that such per diem and such mileage shall be allowed only upon such a showing to the court as is now or may be hereafter required by law.

19. **Compensation not changed.** The legislature hereby declares that the provisions of this act are not intended to and do not increase or diminish the compensation of the officers herein mentioned, but are intended to change the same to a fixed salary basis wherever a salary is provided for compensation of such officers.

20. **In effect when.** The provisions of this act shall take effect ninety days after the final adjournment of the session of the legislature which passed this act and said provisions shall be in force and apply to the present incumbent. [Amendment approved May 29, 1917; Stats. 1917, p. 1284.]

§ 4280. **Counties of fifty-first class, salaries of officers.** In counties of the fifty-first class, the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand dollars per annum, except in the years when a general election is held, and in such years he shall receive two thousand three hundred dollars per annum, and said clerk may appoint one deputy clerk, which office is hereby created, who shall receive a salary of nine hundred dollars per annum. The deputy herein provided for shall be paid at the same time and in the same manner and out of the same fund as the clerk is paid.

2. **Sheriff.** The sheriff, four thousand dollars per annum.

3. **Recorder.** The recorder, one thousand eight hundred dollars per annum.

4. **Auditor.** The auditor, four hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand six hundred dollars per annum.

6. **Tax collector.** The tax collector, seven hundred fifty dollars per annum.

7. **Assessor.** The assessor, two thousand six hundred dollars per annum; provided, however, that such compensation shall be in full for all services of every kind and description rendered by the assesor; and it is further provided, that in counties of this class, from and after the date upon which this act takes effect, the assessor shall pay into the county treasury for the use of the county all commissions and fees which would otherwise be allowed to him by the provisions of section four thousand two hundred ninety of the Political Code, as compensation for the services therein mentioned. The provisions of this subdivision are not intended to increase the compensation of the incumbent of such office, but are intended to change the compensation of the assessor from a mixed fee and salary system to a fixed salary basis and shall take effect ninety days after the final adjournment of the forty-second session of the legislature.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of the county.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Classification of townships. Justices of the peace.** For the purpose of fixing the compensation of justices of the peace according to their duties, townships of this class of counties are hereby classified according to population. The population shall be determined by the board of supervisors upon the enactment of this act, and also at the time of formation of any new township or townships. The board may determine such population by multiplying by three the number of registered voters at the last general election next preceding the date of such determination.

Townships having a population of one thousand two hundred or more shall belong to and be known as townships of the first class; townships having a population of six hundred and less than one thousand two hundred shall belong to and be known as townships of the second class; townships having a population of three hundred and less than six hundred shall belong to and be known as townships of the third class; townships having a population of less than three hundred shall belong to and be known as townships of the fourth class.

Justices of the peace shall receive the following salaries: In townships of the first class the sum of two hundred forty dollars for the period

beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of two hundred forty dollars per annum; in townships of the second class the sum of one hundred eighty dollars for the period beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of one hundred eighty dollars per annum; in townships of the third class the sum of one hundred twenty dollars for the period beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of one hundred twenty dollars per annum; in townships of the fourth class the sum of sixty dollars for the period beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of sixty dollars per annum.

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officers are paid and shall be compensation in full for all services rendered.

All fees received by justices of the peace shall be paid into the county treasury every month.

14. **Constables.** Constables, such fees as are now or may hereafter be allowed by law.

15. **Supervisors.** Each supervisor, eight dollars per day while the board is in session, and mileage from residence to the county seat at each sitting of the board, of twenty cents per mile; also twenty cents per mile for each mile actually and necessarily traveled in discharging the duties of road commissioner, but he shall not in any one year receive more than three hundred dollars per diem as supervisor, and he shall not in any one year receive more than three hundred dollars as road commissioner.

15a. **County librarian.** There is created for counties of the fifty-first class the office of county librarian; the librarian shall be appointed by the board of supervisors for a term of four years and shall receive a salary of one thousand two hundred dollars per annum, to be paid in equal monthly installments at the same time and in the same manner as other county officers are paid.

16. **License collector.** The license collector, ten per cent of all licenses collected by him.

17. **Jurors.** Grand and trial jurors, three dollars per day, and such mileage fees as may be allowed by law.

18. **Witnesses.** Witnesses in attendance upon either the superior or justices' courts, shall receive two dollars per day and such mileage fees as may be allowed by law. [Amendment approved May 28, 1917; Stats. 1917, p. 1255.]

§ 4281. **Counties of fifty-second class, salaries of officers.** In counties of the fifty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum.

2. **Sheriff.** The sheriff, to receive a flat salary of four thousand five hundred dollars per annum, said officer to pay all expenses in running said office and to receive no mileage or fees in criminal cases.

3. **Recorder.** The recorder, one thousand nine hundred dollars per annum.

4. **Auditor.** The auditor, eight dollars per annum.

5. **Treasurer.** The treasurer, one thousand six hundred dollars per annum.

6. **Tax collector.** The tax collector, eight hundred dollars per annum, and ten per cent of all licenses collected by him as license collector.

7. **Assessor.** The assessor, three thousand dollars per annum, in full compensation for all services, save and except that he be allowed a deputy for four months beginning with March first and ending June thirtieth, of each year, at a compensation of seventy-five dollars per month; the salary of said deputy to be paid by the county.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Justices of the peace.** Justices of the peace in counties of this class shall receive the following monthly salaries to be paid each month in the same manner, at the same time, and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than two thousand, fifty dollars per month; in townships having a population of two thousand or less, twenty dollars per month; provided, however, that the justice of the peace of the township wherein the county seat is located shall be in attendance at his office not less than three hours of each and every day except Sundays and holidays, between the hours of nine A. M. and three P. M., said justice to receive a salary of seventy-five dollars per month. The board of supervisors of such county shall furnish and supply to the justice of the peace of the various townships the codes of the state and amendments thereto and all necessary stationery, legal blanks and forms for the proper conduct of business. For the purpose of this subdivision, the population of the several townships shall be ascertained by multiplying the number of registered voters at the last general election by three.

14. **Constables.** Constables, twenty-five dollars per month, and in addition thereto, each constable shall be paid out of the treasury of the county, for traveling expenses, outside of his own township for service

of a warrant of arrest or any other paper, in a criminal case, such fees as are now or may be hereafter allowed by law. For serving a coroner's subpoena, the same fees and mileage as are now or may hereafter be allowed by law for the service of a subpoena issued out of a justice's court. For summoning a coroner's jury the same fees as are now or may be hereafter allowed for summoning a jury in a civil action in the justice's court. For transporting prisoners to the county jail, the actual expenses of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law.

15. **Supervsiors.** Each member of the board of supervisors, one thousand dollars per annum, and mileage from residence to the county seat, at each sitting of the board, at twenty-five cents per mile; which said salary and mileage shall be in full for all services.

16. **Reporter.** In counties of this class, the official reporter of the superior court shall receive a salary of seventy-five dollars per month, to cover all work done in criminal cases, both in the superior and justice's courts of the county; and shall receive as compensation for taking notes in civil cases tried in the superior court a per diem of ten dollars, and for transcription of said notes, when required during the progress of the trial, he shall receive the sum of twenty-five cents per folio for the original, and five cents per folio for one copy, in both criminal and civil cases; but if such transcription is not required until after the conclusion of the trial, then he shall receive the sum of ten cents per folio for the original, and five cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside of the county seat. [Amendment approved May 28, 1917; Stats. 1917, p. 1000.]

§ 4281a. Fees of jurors, counties of fifty-second class. In counties of the fifty-second class, grand jurors, and trial jurors, in criminal cases, shall receive the following fees and mileage: (1) Grand jurors, and jurors in the superior court in criminal cases, shall be paid three dollars per day for each day's attendance, and for each mile actually traveled in going only, while acting as jurors, fifteen cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of each such juror for said per diem and mileage, and the treasurer shall pay the same.

(2) **In criminal cases.** For attending as a trial juror in criminal cases only, in any justice's court of the county, for each day's attendance, two dollars. The justice of the peace shall certify to the auditor the number of days' attendance of each juror, and the auditor shall then draw his warrant therefor, and the treasurer shall pay the same. [New section added May 28, 1917; Stats. 1917, p. 988.]

§ 4283. **Counties of fifty-fourth class, salaries of officers.** In counties of the fifty-fourth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand eight hundred dollars per annum.

2. **Sheriff.** The sheriff, three thousand eight hundred dollars per annum.

3. **Recorder.** The recorder, one thousand five hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees so collected shall exceed one hundred dollars in any one month, the recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of one hundred dollars in any one month, so collected; and provided, that the recorder may retain for his own use all fees collected for filing and recording proofs of labor and notices of location of mining claims.

4. **Auditor.** The auditor, six hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand dollars per annum, and ten per cent of all licenses collected by him.

7. **Assessor.** The assessor, one thousand nine hundred dollars per annum.

8. **District attorney.** The district attorney, one thousand six hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** Public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** Superintendent of schools, one thousand two hundred dollars per annum, and actual traveling expenses of visiting schools of the county.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of the peace.** Justices of the peace, one hundred twenty dollars per annum, and such further compensation as may be provided by ordinance of the board of supervisors.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law.

15. **Supervisors.** Supervisors, each the sum of six hundred dollars per annum, for all services performed by them as supervisors and members of the board of equalization. They shall act as road commissioners in their respective districts and shall receive for the service of such road commissioner three dollars per day for each day's service as such road

commissioner. Such compensation as road commissioner shall not exceed three hundred dollars per annum.

16. **Jurors.** Grand jurors, and trial jurors in the superior court in the civil and criminal cases shall be paid three dollars per day for each day's attendance and for each mile actually traveled in going only, while acting as such juror, twenty cents per mile, and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for said per diem and mileage and the treasurer shall pay the same. [Amendment approved May 28, 1917; Stats. 1917, p. 1164.]

§ 4285. **Counties of fifty-sixth class, salaries of officers.** In counties of the fifty-sixth class, the county officers shall receive as compensation for the services required of them by law and by virtue of their office the following salaries, to wit:

1. **County clerk.** The county clerk, nine hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the clerk a deputy to act as clerk of the board of supervisors, who shall be appointed by the county clerk and be paid a salary of seventy-five dollars per month; said salary to be paid by said county in monthly installments at the time and in the manner and out of the same fund as the salary of the county clerk is paid. In counties of this class the county clerk is hereby allowed in addition to his salary, each year when a new registration is required, the sum of ten cents for each elector registered, which amount shall be allowed by the board of supervisors at the close of registration preceding a general election, and be paid from the general fund of the county.

2. **Sheriff.** The sheriff, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed a jailer who shall be appointed by the sheriff and be paid a salary of fifty dollars per month; and said salary to be paid by said county monthly and at the time and in the manner and out of the same fund as the salary of the sheriff is paid.

3. **Recorder.** The recorder, six hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist, which office of copyist to the recorder is hereby created and which copyist shall be appointed by the recorder and be paid the salary of fifty dollars per month; said salary to be paid by said county in monthly installments at the time and in the manner and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, seven hundred twenty dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand two hundred dollars per annum.

7. **Assessor.** The assessor, nine hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor one deputy who shall be appointed by the assessor and be paid a salary of thirty-five dollars per month; and said salary to be paid

by said county monthly and at the time and in the manner and out of the same fund as the salary of the assessor is paid.

8. **District attorney.** The district attorney, one thousand two hundred dollars per annum and such fees as are now or may hereafter be paid to that officer.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, seven hundred twenty dollars per annum.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of the peace.** For the purpose of fixing the compensation of justices of the peace according to their duties, townships in counties of this class are hereby classified according to their population as follows:

Townships having a population of one thousand or more shall belong to and be known as townships of the first class. Townships having a population of less than one thousand shall belong to and be known as townships of the second class.

The population of the several townships shall be determined by the board of supervisors upon the enactment of this act, and also at the time of the formation of any new township or townships for the purpose of this and the succeeding subdivisions by the last federal census taken during the year 1910. Justices of the peace shall receive the following salaries:

In townships of the first class the sum of three hundred dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of three hundred dollars per annum;

In townships of the second class the sum of one hundred eighty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of one hundred eighty dollars per annum.

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officers are paid, and shall be compensation in full for all services rendered. All fees received by justices of the peace shall be paid into the county treasury every month. The board of supervisors of such counties shall furnish and supply to the justices of the peace of various townships in such counties, the codes of the state and amendments thereto, and all necessary stationary, legal blanks and forms for the proper conduct of business.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law.

15. **Board of supervisors.** Each member of the board of supervisors, four hundred twenty dollars per annum and twenty cents per mile in traveling from his residence to the county seat, going only; provided, that only one mileage shall be allowed for any regular session of the board.

16. **Reporter.** In counties of this class the official reporter of the superior court shall receive as full compensation for taking notes in civil and criminal cases tried in said court and for preliminary examinations in justices' courts and the coroners' inquests, a monthly salary not to exceed fifty dollars, payable out of the county treasury at the same time and in the same manner as the salaries of the county officers; and for transcription of said notes when required he shall receive the sum of ten cents per folio for the original and five cents per folio for the copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county and paid out of the county treasury, and in civil cases to be paid by the party ordering the same or when ordered by the judge, by either party or jointly by both parties as the court may direct.

17. **Fees of jurors.** The fees of grand jurors and trial jurors in the superior courts of said counties of this class in civil and criminal cases, shall be three dollars in lawful money of the United States for each day's attendance and mileage to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for. [Amendment approved April 6, 1917; Stats. 1917, p. 74.]

§ 4286. **Counties of fifty-seventh class, salaries of officers.** In counties of the fifty-seventh class the county and township officers shall respectively receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries and compensation, to wit:

1. **County clerk.** The county clerk, one thousand two hundred dollars per annum.

2. **Sheriff.** The sheriff, two thousand six hundred dollars per annum.

3. **Recorder.** The recorder, six hundred dollars per annum. In counties of this class the recorder may appoint a copyist for service in his office, which office of copyist for the county recorder is hereby created, and said copyist shall receive as compensation for his services fifty per cent of the amount collected in said office during his period of service for filing and recording mining locations and affidavits of assessment work.

4. **Auditor.** The auditor, two hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand dollars per annum.

6. **Tax collector.** The tax collector, five hundred dollars per annum.

7. **Assessor.** The assessor, one thousand two hundred dollars per annum.

8. **District attorney.** The district attorney, one thousand two hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, four hundred dollars per annum.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Population of townships.** For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population, as shown by the total number of registered voters, in each township, at the next preceding general election, prior to the fixing of the classification, the said population to be determined by the supervisors by multiplying the said total number of registered voters by three; townships having a population of not more than one hundred shall belong to and be known as townships of the first class; townships having a population of not more than three hundred and not less than one hundred one shall belong to and be known as townships of the second class; townships having a population of not more than seven hundred fifty and not less than three hundred one shall belong to and be known as townships of the third class; townships having a population of not more than one thousand five hundred and not less than seven hundred fifty-one shall belong to and be known as townships of the fourth class; townships having a population in excess of one thousand five hundred shall belong to and be known as townships of the fifth class; provided, that the board of supervisors may, prior to any general election, consolidate two or more such townships into one.

14. **Justices of the peace and constables.** Justices of the peace and constables each of townships of the first class shall receive an annual salary of one hundred dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables of townships of the second class shall each receive an annual salary of one hundred fifty dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables in townships of the third class shall each receive an annual salary of two hundred dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables in townships of the fourth class shall each receive an annual salary of three hundred dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables in townships of the fifth class shall each receive an annual salary of four hundred dollars to be paid in monthly installments as county officers are paid. The salaries so received by justices of the peace and constables aforesaid shall be in full compensation for all services rendered by them. These salaries shall also apply to incumbents.

15. **Board of supervisors.** Each member of the board of supervisors, six dollars per day during session, and thirty cents per mile one way

to board meetings; three dollars per day (no mileage) as road commissioners when actually engaged in road business.

16. **Jurors.** Jurors' fees in criminal cases shall be as follows: For attending as a grand juror or trial juror in the superior court, in criminal cases only, for each day's attendance, per day, three dollars; for each mile actually traveled in attending court as such juror under summons or under order of court, in criminal cases, in going only, per mile, thirty cents, and the county clerk shall certify to the auditor the number of days' attendance and number of miles traveled by each juror, and the auditor shall draw his warrant therefor and the treasurer shall pay the same. [Amendment approved April 25, 1917; Stats. 1917, p. 203.]

§ 4288. **Time of payment of salaries of county officials.** The salaries of such officers named in this title as are entitled to salaries shall be paid monthly out of the county treasury; and it shall be the duty of the auditor, on the first day of each and every month, to draw his warrant upon the treasurer in favor of each of said officers for the amount of salary due him under the provisions of this title for the preceding month; except that, unless in this title otherwise provided, one-half of the annual salary of the assessor shall be paid to him in equal monthly installments for the months of March, April, May and June, and one-half in equal monthly installments for the remaining eight months of the year. The treasurer shall pay said warrants on presentation, out of the salary fund of the county treasury; provided, that in counties of the first class or in counties operating under a charter, the board of supervisors may, by ordinance, fix a date or schedule of dates for the payment of salaries of the officers, deputies, clerks and other employees of the several departments and institutions of the county government. [Amendment approved April 5, 1917; Stats. 1917, p. 57.]

§ 4289. **Statement of fees before salary warrant issued.** The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall first have filed with him the sworn statement required in section four thousand two hundred ninety-four and a copy of the treasurer's receipt for all fees and other moneys payable into the county treasury, collected by such officer in that month. [Amendment approved May 25, 1917; Stats. 1917, p. 936.]

§ 4290. **Fees and salaries of county officers. Conveying prisoners to state institutions. State settlements of treasurers.** The salaries and fees provided in this title shall be in full compensation for all services of every kind and description rendered by the officers named in this title either as officers or ex-officio officers, their deputies and assistants, unless in this title otherwise provided, and all deputies employed shall be paid by their principals out of the salaries provided in this title, unless in this title otherwise provided; provided and except, that the assessor shall be entitled to receive and retain for his own use, unless in this title otherwise provided, six per cent of personal property tax collected by him, as authorized by section three thousand eight hundred twenty, and fifteen per cent of all amounts collected by him for poll

taxes, and road poll taxes, and also five dollars per hundred names of persons returned by him as subject to military duty, as provided in section one thousand nine hundred one, and shall also be allowed by the county his actual expense when summoned before the state board of equalization in pursuance of an act entitled "An act to carry into effect the provisions of section fourteen of article thirteen of the constitution of the state of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations for the benefit of the state, all relating to revenue and taxation," and the license collector shall be entitled to receive and retain for his own use ten per cent on all licenses collected by him, except where otherwise provided in this title; provided, however, that in counties and cities and counties of the first, second and third classes, the assessor shall receive no commission for the collection of taxes on personal property, nor shall such assessor receive any compensation or commission for the collection of poll taxes or road poll taxes, nor shall such assessor receive any compensation for making out military roll of persons returned by him as subject to military duty, as provided by section one thousand nine hundred one; nor shall the license collector in counties and cities and counties of the first and second classes receive any commission for licenses collected by him; provided, further, that the treasurer shall receive and retain for his own use the commissions on all inheritance and transfer taxes collected by him; and provided, further, that whenever the treasurer of any county shall employ a special attorney for the collection of such taxes, said attorney shall be paid out of the commissions and fees allowed by law for the collection of such taxes; provided, that in any county where the number of judges of the superior court shall have been increased since the first day of January, 1911, or shall hereafter be increased, there must be and there hereby is allowed to the sheriff of such county, by reason of such increase, one additional deputy, to be appointed by the sheriff, at a salary not exceeding one thousand two hundred dollars per annum, to be paid at the same time and in the same manner as other county officers are paid, and also there must be and is hereby allowed to the county clerk of such county, one additional deputy to act as courtroom clerk, for each judge so appointed or elected, at a salary not exceeding one thousand two hundred dollars per annum for each of said deputies, to be paid at the same time and in the same manner county officers are paid. The board of supervisors shall allow to the sheriff his necessary expenses for pursuing criminals, or transacting any criminal business, and for boarding prisoners in the county jail; provided, that the board of supervisors shall fix a reasonable price at which such prisoners shall be boarded, if not otherwise provided for in this title, which price shall not be less than twelve cents for each meal for each prisoner; provided, further, that the sheriff shall be entitled to receive and retain for his own use, five dollars per diem for conveying prisoners to and from the state prisons, and for conveying persons to and from the insane asylums, or other state institutions, not otherwise provided for by law; also, all expenses necessarily incurred in conveying insane persons to and from the insane asylums and in conveying persons to and from the state prisons, or other state institutions, which per diem and expenses shall be

allowed by the board of examiners and collected from the state. The court shall also allow the sheriff his necessary expenses in keeping and preserving property seized on attachment or executions, to be paid out of the fees collected in the action. The sheriff may retain for his own use the mileage for service of papers or process issued by any court of the state; provided, further, that the county treasurers of the several counties of this state, where their necessary expense incurred in the making of the state settlements provided for by section three thousand eight hundred sixty-six shall exceed the maximum amount of mileage allowed them by section three thousand eight hundred seventy-six shall be allowed out of the county treasury of their respective counties, the amount of such excess, which shall be paid as other demands against the county are paid; provided, further, that in case county or city and county officers perform municipal duties imposed by a charter framed under the provisions of sections eight and eight and one-half of article eleven of the constitution the compensation of such officers and the expense of such officers may be apportioned by the board of supervisors in proportion to the duties rendered as county officers under general laws and rendered as municipal officers under charter provisions, and the compensation determined to be for the performance of municipal duties shall be paid from funds raised for municipal purposes and the compensation determined to be for county duties shall be paid from funds provided by sections three thousand seven hundred fourteen and four thousand three hundred five of this code. [Amendment approved May 29, 1917; Stats. 1917, p. 1323.]

§ 4292. **Payment of fees into county treasury.** All salaried officers of the several counties and townships of this state shall charge and collect for the use of their respective counties, and pay into the county treasury, on or before the fifth day of each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county. [Approved May 25, 1917; Stats. 1917, p. 937.]

§ 4293. **Record of fees.** Each of the officers authorized to receive fees under the provisions of this title must keep a record, open to the public inspection during office hours, in which must be entered, at once and in detail, all fees or compensation, and fines, of whatever nature, kind, or description, collected or chargeable. On the first day of each and every month, the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all such records kept by him to the county auditor. [Amendment approved May 25, 1917; Stats. 1917, p. 937.]

§ 4294. **Statement filed with auditor. Form of affidavit.** Each of the officers authorized to receive fees under the provisions of this title must pay the fees and compensation and fines collected and chargeable for the county in each month, to the treasurer on or before the fifth day in the following month and must file with the auditor a statement, duly verified, showing the amounts and kinds of fees, compensation, and fines collected or chargeable, the amounts collected and the amount of trust

moneys received, disbursed, and on hand. The affidavit shall be in substantially the following form:

"I, A. B., county clerk (or other officer, as the case may be), do swear that the fee record in my office contains a true statement in detail of all fees and compensation of every kind and nature for official services rendered by me, my deputies and assistants, and the amount of all fines, and trust money, received, disbursed and on hand, for the month of ——, A. D. ——, and that said fee record shows a full amount received or chargeable in said month, and that neither myself, nor to my knowledge or belief, any of my deputies or assistants have rendered any official service, except as provided in sections four thousand two hundred ninety-five and four thousand two hundred ninety-seven of the Political Code, which is not fully set out in said fee record and that the foregoing statement thereof and of other matters, is complete, true, and correct."

The auditor shall file and preserve in his office said statements and affidavits. [Amendment approved May 25, 1917; Stats. 1917, p. 937.]

§ 4295. **Prepayment of fees for official services.** State, county, and township officers shall not in any case except in proceedings upon habeas corpus perform any official services unless upon the prepayment of such fees as are prescribed by law for the performance of such services; provided, that the state, or any county, city, or city and county, or any public officer, or board, or body acting in his or its official capacity on behalf of the state, or any county, city or city and county, shall not be required to pay or deposit any fee for the filing of any document or paper or for the performance of any official service; provided, further, that the state, or any county, city, or city and county, or any public officer or board, or body, acting in his or its official capacity on behalf of the state, or any county, city, or city and county, shall not collect, demand, or receive any fee or compensation for any service whatever rendered in the matter of a pension claim, application, affidavit, voucher, or furnishing a verified copy of the public record of a marriage, death, or divorce or making a search for same, wherein the same is to be used in a claim for a pension. Said services to be rendered on the request of a United States official, a claimant or his or her attorney, and for every failure or refusal so to do such officer shall be liable on his official bond.

Upon the payment by any person of the fees required by law, the officer must perform the services required, and for every failure or refusal so to do such officer shall be liable on his official bond. [Amendment approved May 26, 1917; Stats. 1917, p. 1175.]

§ 4300a. **Fees of county clerk.** In addition to the charges otherwise provided for by law, the county clerk shall charge and collect the following fees:

For filing the first paper in a civil action or in a special proceeding, except a probate proceeding or an adoption proceeding, five dollars.

For filing the papers transmitted from another county on the transfer of a civil action or a special proceeding, except a probate proceeding or an adoption proceeding, five dollars.

For filing the papers transmitted on appeal from a justice's court in a civil action or a special proceeding, five dollars.

On the appearance of any defendant, or any number of defendants appearing jointly, except disclaimer, to be paid upon filing the first paper in the action by him or them, two dollars; and for every additional defendant appearing separately, one dollar.

For filing a petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary or a petition for letters of guardianship, five dollars; provided, that when either the public administrator or the secretary of the state commission in lunacy, in his official capacity is the petitioner, he shall be required to pay said fee only out of the assets of the estate coming into his possession; provided, that only one fee must be collected by any one estate or guardianship matter. On placing any action or proceeding for the first time on the calendar for hearing or trial, to be paid by the party at whose request such action or proceeding is so placed, two dollars; provided, no fee shall be charged for probate, adoption or criminal proceedings or default cases in civil actions.

For issuing an execution, or order of sale, one dollar.

The foregoing fees shall be in full for all services rendered by the county clerk to and including the making up of the judgment-roll in any action or proceeding except for making or certifying to copies of filed papers or records.

For filing or docketing an abstract of judgment from a justice's court, one dollar.

On filing the petition to contest any will or codicil, three dollars.

For filing any notice of intention to move for a new trial of any civil action or special proceeding, two dollars.

For preparing a copy of any record, proceeding, or paper on file in his office per folio, ten cents.

For each certificate of the clerk, except a certificate to a copy of a filed record, paper or proceeding or a certificate in connection with a governmental civil service examination, twenty-five cents.

No fees shall be charged by the clerk for services rendered in any criminal action or adoption proceedings, except for making or certifying to copies of proceedings.

For issuing a marriage license, one-half to be paid to the county recorder, two dollars. This fee shall be in full for all services in connection with the issuance of a marriage license.

For filing and indexing articles of incorporation, amended articles of incorporation or a certified copy of articles of incorporation, one dollar.

For filing a certificate of increase of the capital stock of a corporation, one dollar.

For filing a certificate of decrease of the capital stock of a corporation, one dollar.

For filing a certificate of increase of the number of directors of a corporation, one dollar.

For filing certificate of decrease of the number of directors of a corporation, one dollar.

For filing a certificate of notice of removal of the principal place of business of a corporation, one dollar.

For filing a certificate of creation of bonded indebtedness of a corporation, one dollar.

For filing a certificate of increase of bonded indebtedness of a corporation, one dollar.

For filing any charter, by-laws, or any other certificate, etc., of any corporation, granting power to do business in this state, one dollar.

For filing and indexing a certificate of partnership, including affidavit of publication, one dollar.

For filing and indexing a certificate of fictitious name, including affidavit of publication, one dollar.

For filing and indexing an auctioneer's bond, one dollar.

For filing and indexing all papers other than papers filed in actions or special proceedings, official bonds, certificates of appointment, or papers for which a charge is not elsewhere provided, one dollar.

For either recording or registering any license or certificate or issuing any certificate, or both, in connection with a license, required by law, for which a charge is not otherwise prescribed, one dollar.

For examining and certifying to any copy of any paper, record or proceeding prepared by another and presented for his certificate, fifty cents, and one cent per folio for comparing the said copy with the original.

For taking any affidavit, except in criminal cases, or adoption proceedings, or in connection with governmental civil service examinations, fifty cents.

For searching records or files, of each year, fifty cents.

For taking and approving each undertaking, and the justification thereof, except in criminal cases, for each signature, fifty cents.

For taking acknowledgment of any deed or other instrument, including the certificate, for each signature, fifty cents.

For exemplification of record or other paper on file besides the charges allowed for copying or comparing, one dollars. [Amendment approved May 23, 1917; Stats. 1917, p. 902.]

§ 4300e. Fees of justices of the peace. Justices of the peace, except as in this title otherwise provided: For all services to be performed by him before trial, in a civil action, two dollars; and for the trial of either a question of law or fact, and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment and issuance of execution thereon, three dollars, to be paid when such trial is calendared for hearing. For all services in a criminal action or proceeding, whether on examination or trial, three dollars. For taking bail after commitment by another magistrate, fifty cents. For certificate and transmitting transcript and papers on appeal, one dollar. For copies of papers on docket, per folio, ten cents. For issuing a search warrant, to be paid by the party demanding the same, fifty cents. For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents. For taking deposition, per folio, fifteen cents. For administering an oath, and certifying the same, twenty-five cents. For issuing a commission to take testimony, fifty cents. For all services connected with the posting of estrays, one dollar. In cases before a justice of the peace, when the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the transcript and papers, shall receive one dollar; and the justice before whom the trial

shall take place shall receive the same fees as if the action had been commenced before him. For receiving and filing an abstract of judgment rendered by a justice or judge of another jurisdiction, and for subsequent services based thereon, two dollars. For performing the duties of coroner, when the coroner fails to act, the same fees and mileage as are allowed the coroner in all cases. For issuing each process, writ, order or paper required by law to be issued not otherwise in this article provided for, twenty-five cents. For administering oath or affirmation not otherwise in this article provided for, ten cents. For each certificate or affidavit not otherwise in this article provided for, twenty-five cents. For taking and approving bond or undertaking, including the justification of sureties, fifty cents. [Amendment approved April 24, 1917; Stats. 1917, p. 173.]

34

GENERAL LAWS

OF THE

STATE OF CALIFORNIA.

AMENDMENTS OF 1917.

TITLE 6.

ADULTERATION.

ACT 29.

An act to prevent the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a state laboratory for foods, liquors and drugs and making an appropriation therefor.

[Approved March 11, 1907. Stats. 1907, p. 208.]

Amended 1909, pp. 51, 353; 1911, p. 1114; 1915, p. 170; 1917, p. 1641.

The amendment of 1917 follows:

§ 3. **Standard of purity.** The standard of purity of food and liquor shall be that proclaimed by the secretary of the United States department of agriculture. Nothing in this section contained shall authorize or permit any adulteration of any food or liquor because the standard of purity of such food or liquor shall not be proclaimed by the secretary of the United States department of agriculture. [Amendment approved June 1, 1917; Stats. 1917, p. 1641.]

§ 9. **Laboratory for analysis of foods and drugs. Duties of director, etc. Salaries. Assistants.** For the purpose of this act there is hereby established a state laboratory for the analysis and examination of foods and drugs, which shall be under the supervision of the state board of health, which laboratory shall be located at such place as the state board of health may select. The state board of health shall appoint a director of said laboratory, consulting nutrition expert, and an assistant to such director, all of whom shall be skilled pharmaceutical chemists and analysts of foods and drugs. Said director shall perform all duties required by this act and which shall be required by the state board of health. Said consulting nutrition expert shall at all times be ready for consultation with, give advice to, and perform duties in connection with the director of said laboratory, and shall at all times be under the supervision of and perform such duties under this act as are required by the state board of health. As a part of his duties he shall consult and advise with the state board of control concerning standards of purity and other matters relating to foods and drugs purchased by the state of California for any or all of its institutions. The assistant shall

be under the supervision of the director and shall perform all duties required of him by the director and by the state board of health.

The director shall receive an annual salary of three thousand six hundred dollars, the consulting nutrition expert shall receive an annual salary of one thousand two hundred dollars and the assistant to the director shall receive an annual salary of one thousand eight hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of state officers.

The state board of health, out of the appropriation hereinafter provided, and out of the funds derived from the operation of this act, may employ and fix the compensation of other and additional clerical and professional assistants. [Amendment approved June 1, 1917; Stats. 1917, p. 1641.]

§ 10. Suspected food to be analyzed. Duty of sheriffs. Powers of inspectors. The state board of health or its secretary, shall cause to be made by the said director of the state laboratory, or under his supervision, examinations and analyses of food and liquor on sale in California, suspected of being adulterated, mislabled or misbranded at such times and places and to such extent as said board or its secretary may determine, and may appoint such agent or agents, as it may deem necessary, and the sheriffs of the respective counties of the state are hereby appointed and constituted agents for the enforcement of this act, and any agent or sheriff shall have free access, at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated, mislabled or misbranded foods exist, and such agent or sheriff upon tendering the market price of said articles, if a sale be refused, may take, from any person, firm or corporation samples of any articles suspected of being adulterated, mislabeled or misbranded, and shall deliver or forward such samples to the said director of the state laboratory for examination and analysis. The director of the state laboratory, the agents and inspectors of the state board of health shall have the same powers as are possessed by peace officers in this state. [Amendment approved June 1, 1917; Stats. 1917, p. 1642.]

§ 20. Penalty. Adulterated food seized. Adulterated food destroyed. Any person, firm, company or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Whenever the director of the state laboratory shall find after investigation and examination that any article of food found in the possession of any person, firm, company or corporation is adulterated, misbranded or mislabeled within the meaning of this act, he may seize such article of food and tag the same "quarantined," and said article of food shall not thereafter be sold, offered for sale, removed or otherwise disposed of pending hearing and final disposition as in this act provided.

Whenever the director of the state laboratory or any agent or inspector of the state board of health shall find any article of food adulterated within the meaning of the sixth subdivision of section four of this

act, he may seize such article of food and tag the same "quarantined" and said article of food shall not thereafter be sold, offered for sale, removed or otherwise disposed of until further notice in writing from said director of the state laboratory. Food found to be adulterated, mislabeled or misbranded within the meaning of this act may, by order of any court or judge, be seized and destroyed. [Amendment approved June 1, 1917; Stats. 1917, p. 1642.]

ACT 47b.

An act to prevent the sale of impure and unwholesome milk, to grade milk, to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to make an appropriation therefor. [Approved June 11, 1915. Stats. 1915, p. 1478.]

Repealed 1917, p. 803. See next Act.

ACT 47c.

An act to prevent the sale of impure and unwholesome milk, butter, ice-cream and other milk products; to declare ice-cream a milk product; to grade milk; to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to repeal an act entitled, "An act to prevent the sale of impure and unwholesome milk, to grade milk, to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to make an appropriation therefor," approved June 11, 1915.

[Approved May 22, 1917. Stats. 1917, p. 803. In effect July 27, 1917.]

§ 1. Milk must be pasteurized. Cream for butter. Butter used in manufacture of foodstuffs. Marking of butter. Ice-cream a milk product. It shall be unlawful for any person, firm or corporation, except in bulk to the wholesale trade, to sell or exchange or offer or expose for sale or exchange for human consumption any milk from cows that have not passed the tuberculin test, until it has been pasteurized by the holding process at a temperature not less than one hundred forty degrees Fahrenheit for twenty-five minutes; provided, that milk for drinking purposes shall not be heated for more than one hour nor above one hundred forty-five degrees Fahrenheit; provided, further, that cream that is to be manufactured into butter may be pasteurized by heating it to a higher degree than milk and, when the same is uniformly heated to and held at a higher degree of temperature than one hundred fifty-one degrees Fahrenheit, the time for holding may be de-

creased from twenty-five minutes by one minute for each degree of temperature over one hundred fifty-one degrees Fahrenheit. It shall further be unlawful for any person, firm or corporation to sell or exchange or offer or expose for sale or exchange for human consumption any butter, ice cream or other milk products except cheese and butter as hereinafter provided, into the composition of which any milk enters other than that permitted in this section of this act, to be sold at retail for human consumption; provided, that nothing in this act shall be construed to prohibit the use or sale of butter that is not pasteurized or butter that is not the product of nonreacting tuberculin-tested cows; provided, that said butter be used by manufacturers of foodstuffs only and in the manufacture of such foodstuffs said butter shall be subjected to a minimum temperature of two hundred twenty-five degrees Fahrenheit; and provided, further, that it shall be unlawful to use any such butter except in the manufacture of food subjected to said temperature. Butter offered for sale for human consumption shall be marked: "From nonreacting tuberculin-tested cows," or "Pasteurized," as the case may be. Butter, which, by the provisions of this act, is permitted to be used for cooking and baking purposes only shall be marked "for cooking and baking only." Ice-cream is hereby declared to be a milk product. For the purpose of this act milk shall be construed to include cream.

§ 2. **Sale of milk where milk inspection service established.** It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange, in any city, county, or city and county, in which a milk inspection service, approved by the state dairy bureau, has been established, any milk otherwise than as hereinafter provided in this act, and for the purpose of this act, the term "inspecting department" shall be construed to mean the health department of a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the state dairy bureau, and such inspecting department shall include at least one regularly licensed physician. It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange any milk as and for, or under the designation, label or other representation of "guaranteed," "grade A," or "grade B" milk, except within a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the state dairy bureau; provided, that a person, firm or corporation, which is authorized to sell milk within the jurisdiction of an inspecting department may sell milk from the same supply, of the same quality, in similar containers, and under the same label in territory outside the jurisdiction of any inspecting department, if local ordinances are not thereby violated, and also in territory within the jurisdiction of any other inspecting department; provided, the consent of said other inspecting department has been previously obtained.

§ 3. **Milk not to be sold for human consumption.** All milk sold or exchanged or offered or exposed for sale or exchange except in bulk to the wholesale trade in any county or group of counties, city or group of cities, or city and county, in which a milk inspection service, approved by the state dairy bureau has been established, except certified milk,

guaranteed milk, grade A milk and grade B milk, is hereby declared to be impure and unwholesome and must not be sold for human consumption.

§ 4. **Grades of milk.** Where an inspection service is maintained as provided in section two of this act, milk shall be graded as follows: Certified milk, guaranteed milk, grade A milk, grade B milk and milk not suitable for human consumption; provided, that milk sold or exchanged or offered or exposed for sale or exchange as and for, or under the designation, label or other representation of "guaranteed," "grade A" or "grade B," milk shall have the grade and whether raw or pasteurized marked on the container or cap of the container in capital letters not less than one-eighth inch long and one-sixteenth inch wide; and provided, further, that milk not suitable for human consumption shall be plainly so marked.

§ 5. **Approval of inspecting department.** No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as or for guaranteed milk, any milk, raw or pasteurized the quality of which is guaranteed by the dealer, without approval in writing of the inspecting department, which milk must be of a higher standard than that required for grade A raw milk.

§ 6. **Requirements for grade A milk. Dairies having not more than two cows. Sterile containers. Bacteria content.** No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade A milk, any milk that does not conform to the rules and regulations and the methods and standards for production and distribution of grade A milk adopted by the inspecting department.

Grade A milk shall conform to the following requirements as a minimum: If raw, it shall consist of the clean raw milk from healthy cows as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department, and by the tuberculin test by a qualified veterinarian under the supervision of the state veterinarian, and from dairies that score not less than seventy per cent on the score card hereinafter set forth; provided, however, that dairies having not more than two milking cows, and, which are found by any such inspecting department to comply fully with the remaining provisions of this act are hereby exempted from such scoring requirements and from the use of the labels prescribed in section four hereof. The tuberculin test must be repeated annually if no reacting animals are found in the herd. If reacting animals are found they must be removed from the herd, and the tuberculin test repeated in six months. All cows are to be fed, watered, housed and milked under conditions approved by the inspecting department. All persons who come in contact with the milk must exercise scrupulous cleanliness and must not harbor the germs of typhoid fever, tuberculosis, diphtheria or other infectious diseases liable to be conveyed by milk. Absence of such infections shall be determined by cultures and physical examination, to the satisfaction of the inspecting department.

This milk is to be delivered in sterile containers and is to be kept at a temperature established by the inspecting department until it reaches the ultimate consumer, when it must contain less than one hundred thousand bacteria per cubic centimeter. If pasteurized it shall come from cows free from disease as determined by physical examination at least once in six months, by a qualified veterinarian under the supervision of the inspecting department. It shall contain less than two hundred thousand bacteria per cubic centimeter before pasteurization and less than fifteen thousand bacteria per cubic centimeter at the time of delivery to the ultimate consumer. Dairies from which this milk is derived must score at least sixty on the score card hereinafter set forth.

§ 7. **Requirements for grade B milk. Pasteurization. Records.** No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade B milk, any milk that does not conform to the following requirements as a minimum: It must be obtained from cows in no way unfit for the production of milk or use by man, as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department. Before pasteurization such milk shall contain less than one million bacteria per cubic centimeter. After pasteurization it shall contain less than fifty thousand bacteria per cubic centimeter.

Milk for pasteurization must be kept at a temperature established by the inspecting department up to the time of delivery to the pasteurization plant and rapidly cooled after pasteurization to a temperature of fifty degrees Fahrenheit or below and so maintained to the time of delivery of the same. Pasteurization shall be by the holding method at a temperature not less than one hundred forty degrees Fahrenheit; provided, that milk for drinking purposes shall not be heated above one hundred forty-five degrees Fahrenheit.

Such pasteurizing plant shall be equipped with a self-registering device for record of the time and temperature of pasteurization. Such records shall be kept for two months and be available for inspection by any health department, the state veterinarian or any of his agents; or the state dairy bureau. Pasteurized milk shall be marked with the day of the week of pasteurization and must be delivered to the consumer within forty-eight hours thereafter. If milk is repasteurized, it must not be sold except as not suitable for human consumption; provided, however, if graded, cream of any grade shall conform to all the standards set for milk of the same grade, except that the maximum bacterial count for cream shall be not more than two times as great as that of the corresponding grade of milk.

§ 8. **Milk not suitable for human consumption.** Milk not suitable for human consumption may be sold for industrial purposes, provided it be heated to a higher temperature than necessary for pasteurization, and delivered in a distinctive container, plainly marked with the words "Not suitable for human consumption," in letters not less than one-quarter inch in length and one-twelfth inch stroke.

§ 9. **Counties, etc., may maintain inspection service.** Counties, or groups of counties, cities or groups of cities, or cities and counties, are hereby authorized to maintain a milk inspection service and laboratory

conformable to requirements as set forth by the state dairy bureau, and to establish pasteurizing plants.

§ 10. **Penalty for violation.** Any person who shall violate any provision of this act or the rules made in accordance with section eleven of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both such fine and imprisonment. One-half of all such fines shall be paid into the state treasury and placed to the credit of the general fund.

§ 11. **Duty of state dairy bureau.** It shall be the duty of the state dairy bureau, with the assistance of the pure food and drugs laboratory, to enforce all the provisions of this act except the tuberculin testing of cows and the marking of reactors; and said bureau, with the approval and assistance of the pure food and drugs laboratory, is hereby empowered to make such rules and regulations as may be necessary and advisable for such enforcement.

§ 12. **Duty of state veterinarian.** It shall be the duty of the state veterinarian, as soon as practicable, either directly or through local inspecting departments, to enforce the provisions of this act as to the tuberculin testing of cows and the exclusion of reacting animals from the herds, and to mark indelibly by tattooing the ear with the capital letter "T" one inch long any cattle which have been tested with tuberculin under the provisions of this act and found to react to the test. For such purpose he may appoint such veterinarians as may be necessary.

§ 13. **Dairyman not operating under inspecting department.** If any dairyman not operating under an inspecting department desires to sell milk, he may file with the state veterinarian a written request that his cows be tuberculin tested. After the filing of such request, said dairyman shall not be liable under the provisions of this act until such time as the state veterinarian shall be able to make the required test. The provision of this section shall apply also to any dairyman, operating under an inspecting department, if such inspecting department approves.

§ 14. **Score card.** The following score card shall be used in scoring dairies under the provisions of this act:

DAIRY FARM SCORE CARD OF THE UNITED STATES BUREAU OF ANIMAL INDUSTRY.

[As approved by the bureau for use under California conditions.]

DAIRY FARM SCORE CARD.

Equipment.	Score. Perfect.	Score. Allowed.
COWS.		
Health	6	....
Apparently in good health	1	
If tested with tuberculin within a year and no tuberculosis is found, or if tested within six months and all reacting animals removed	5	
If tested within a year and reacting animals are found and removed	3	
Food (clean and wholesome)	1	....
Water (clean and fresh)	1	....
STABLES.		
Location of stable	2	....
Well drained	1	
Free from contaminating surroundings	1	
Construction of stable	4	....
Tight, sound floor and proper gutter	2	
Smooth, tight walls and ceiling	1	
Proper stall, tie, and manger	1	
Provisions for light: Four square feet of glass per cow	4	....
(Three square feet of glass or four square feet of opening, 3; two square feet of glass or three square feet of opening, 2; one square foot of glass, 1. Deduct for uneven distribution.)		
Bedding, or clean pasture for bed	1	....
Ventilation	7	....
Ventilators in roof	2	
Windows hinged at bottom	2	
(Sliding windows, 1.5; other openings, 1.)		
Cubic feet of space per cow, 500 feet	3	
(Less than 500 feet, 2; less than 400 feet, 1; less than 300 feet, 0.)		
UTENSILS.		
Construction and condition of utensils	1	....
Water for cleaning	1	....
(Clean, convenient and abundant.)		
Small-top milking pail	5	....
Milk cooler	1	....
Clean milking suits	1	....
MILK ROOM OR MILK HOUSE.		
Location: Free from contaminating surroundings	1	....
Construction of milk room	2	....
Floor, walls, and ceiling	1	
Light, ventilation, screens	1	
Separate rooms for washing utensils and handling milk	1	....
Facilities for steam	1	....
(Hot water, 0.5.)		
Total	40	....

Methods.	Score. Perfect.	Score. Allowed.
COWS.		
Clean	8	....
(Free from visible dirt, 6.)		
STABLES.		
Cleanliness of stables	6	....
Floor	2	
Walls	1	
Ceiling and ledges	1	
Mangers and partitions	1	
Windows	1	
Stable air at milking time	5	....
Freedom from dust	3	
Freedom from odors	2	
Cleanliness of bedding	1	....
Barnyard	2	....
Clean	1	
Well drained	1	
Removal of manure daily to 50 feet from stable	2	....
MILK ROOM OR MILK HOUSE.		
Cleanliness of milk room	3	....
UTENSILS AND MILKING.		
Care and cleanliness of utensils	8	....
Thoroughly washed	2	
Sterilized in steam for 15 minutes	3	
(Placed over steam jet, or scalded with boiling water, 2.)		
Protected from contamination	3	
Cleanliness of milking	9	....
Clean, dry hands	3	
Udders washed and wiped	6	
(Udders cleaned with moist cloth, 4; cleaned with dry cloth or brush at least 15 minutes before milking, 1.)		
HANDLING THE MILK.		
Cleanliness of attendants in milk room	2	....
Milk removed immediately from stable without pouring from pail	2	....
Cooled immediately after milking each cow	2	....
Cooled below 50° F.	5	....
(51° to 55°, 4; 56° to 60°, 2.)		
Stored below 50° F.	3	....
(51° to 55°, 2; 56° to 60°, 1.)		
Transportation below 50° F.	2	....
(51° to 55°, 1.5; 56° to 60°, 1.)		
(If delivered twice a day, allow perfect score for storage and transportation.)		
Total	60	....

Equipment + Methods = Final Score.

NOTE 1.—If any exceptionally filthy condition is found, particularly dirty utensils, the total score may be further limited.

NOTE 2.—If the water is exposed to dangerous contamination, or there is evidence of the presence of a dangerous disease in animals or attendants, the score shall be 0.

§ 15. **Stats. 1915, p. 1478, repealed.** The purpose of this act is to amend and supersede an act entitled "An act to prevent the sale of impure and unwholesome milk, to grade milk, to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to make an appropriation therefor," which is hereby repealed.

TITLE 10.

AGENTS.

ACT 60.

An act to define real estate brokers, agents, salesmen, solicitors; to provide for the regulation, supervision, and licensing thereof; to create the office of real estate commissioner and making an appropriation therefor.

[Approved June 1, 1917. Stats. 1917, p. 1579.]

§ 1. **License for real estate business.** It shall be unlawful for any person, copartnership, or corporation to engage in the business or act in the capacity of a real estate broker or a real estate salesman within this state without first obtaining a license therefor.

§ 2. **Real estate broker. Real estate salesman. Application of act. Act constituting person, etc., a broker.** A real estate broker within the meaning of this act is a person, copartnership or corporation who for a compensation sells or offers for sale, buys or offers to buy or negotiates the purchase or sale or exchange of real estate, or who, for compensation negotiates loans on real estate, leases or offers to lease, rents or places for rent or collects rent from real estate or improvements thereon for others as a whole or partial vocation.

A real estate salesman within the meaning of this act is one who is employed by a licensed broker to sell or offer for sale, or to buy or offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or offer to lease, rent or place for rent any real estate as a whole or partial vocation.

The provisions of this act shall not apply to any person, copartnership or corporation who shall perform any of the acts aforesaid with reference to the buying, selling or exchanging of property owned by such person, copartnership or corporation, or renting, collecting rents, or negotiating a loan on such property; nor shall the provisions of this act apply to salaried employees other than salesman or solicitors of a licensed real estate broker; and provided, further, that the provisions of this act shall not apply to persons holding a duly executed power of attorney from the owner for the sale of real estate, nor shall this act be construed to interfere in any way with services rendered by an attorney at law, nor shall it be held to include a receiver, trustee in bankruptcy, or any person selling real estate under order of any court, nor to a trustee selling under a deed of trust, nor apply to any corporations, associations, copartnerships, companies, firms and individuals now or hereafter subject

to the jurisdiction or authority of the railroad commission, nor to corporations now or hereafter organized under the laws of this state for the purpose of conducting the business of banking within this state, nor to corporations, associations, copartnerships, companies, firms and individuals after they have secured from the insurance commissioner or the bureau of building and loan supervision a certificate of authority or license to do business within this state, nor to corporations, associations, copartnerships or companies, subject to federal regulation or not organized for profit, nor to mutual water companies and irrigation districts.

One act, for a compensation of buying or selling real estate of or for another or offering for another to buy or sell, or exchange real estate, or to negotiate a loan on or to lease or rent real estate, or to collect rent therefrom for a compensation shall constitute the person, copartnership or corporation making such offer, sale or purchase, exchange or lease, or negotiating said loan or so renting or collecting said rent, a real estate broker within the meaning of this act.

§ 3. State real estate commissioner's department. Salary. Oath. Bond. Clerks and duties. Office in Sacramento. "Real estate commissioner's fund" created. Seal. There is hereby created a state real estate commissioner's department. The chief officer of such department shall be the commissioner. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars with corporate security or two or more sureties, to be approved by the governor of the state, for the faithful discharge of the duties of his office.

The real estate commissioner shall employ such clerks and deputies as he may need to discharge in proper manner the duties imposed upon him by law. Neither the real estate commissioner nor any of his clerks or deputies shall be interested in any real estate company, or real estate broker, as director, stockholder, officer, member, agent or employee. Such clerks and deputies shall perform such duties as the real estate commissioner shall assign to them. He shall fix the compensation of such clerks and deputies which compensation shall be paid monthly on the certificate of the real estate commissioner, and on the warrant of the controller out of the state treasury; provided, however, that the total expenditures provided for in this act shall not exceed fifty thousand dollars per annum. Each deputy shall after his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state.

The real estate commissioner shall have his office in the city of Sacramento and he shall from time to time obtain the necessary furniture, stationery, fuel, light and other proper conveniences for the transaction of business, the expenses of which shall be paid out of the state treasury on the certificate of the real estate commissioner and the warrant

of the controller, drawn upon the real estate commissioner's fund hereinafter provided.

A fund is hereby created to be known as the "real estate commissioner's fund," and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the real estate commissioner, including the salary of the commissioner and his clerks and deputies, traveling expenses, furnishing rooms and rent. All moneys collected or received by the real estate commissioner under and by virtue of the provisions of this act shall be delivered by him to the treasurer of the state, who shall deposit the same to the credit of said real estate commissioner's fund. And all such funds so deposited or such part thereof as may be necessary for the purposes of this act are hereby appropriated to the use of the real estate commissioner's fund for the purpose of carrying out the provisions of this act. It shall be the duty of the real estate commissioner semi-annually to certify under oath to the state treasurer and secretary of state the total amount of receipts and expenditures of the real estate commissioner's department for the six months preceding. All fees and payments of every description required by this act to be paid to the real estate commissioner shall be paid by him to the state treasurer on the first day of each week following their receipt.

The real estate commissioner shall adopt a seal with the words "Real Estate Commissioner, State of California," and such other device as the commissioner may desire engraved thereon, by which he shall authenticate the proceedings of his office. Copies of all records and papers in the office of the real estate commissioner's department shall be received in evidence in all cases equally and with like effect as the originals.

§ 4. **Legal assistance.** Said commissioner shall have the advice and assistance of one assistant attorney general whenever he shall require the same in the prosecution of matters pertaining to this act, and the commissioner shall have full power to regulate and control the issuance and revocation, both temporary and permanent, of licenses, and to perform all other acts and duties under the provisions of this act.

§ 5. **Limitations on license.** No real estate license shall give authority to do any act in connection with the real estate business to any person, copartnership or corporation other than those to whom said license is issued, and to the regular employees of said person, copartnership or corporation; provided, however, that when a license is issued to a corporation the officers thereof other than the president shall be required to obtain a license if engaged in the real estate business as a whole or partial vocation; and provided, further, that when a license is granted to a copartnership the members of said firm or association shall each be required to obtain a separate license, except as provided in section eight hereof.

§ 6. **Application for licenses. Licenses as salesmen.** Applications for such licenses shall be made in writing to the real estate commissioner, which application shall be accompanied by the recommendation of two real estate owners of the county in which such applicant resides certify-

ing that the applicant is honest, truthful and of good moral character and recommending that a license be granted the applicant. If the applicant shall have resided less than one year in the county from which the application is made, then he shall be required to give satisfactory proof that his standing is above reproach and that his record for honesty and fair dealing is clear in his former place or places of business. The real estate commissioner may require such other sufficient and satisfactory proof as to him may seem desirable in reference to the character of any applicant for license, or of the officers of any corporation, or the members of any firm making such application before authorizing the issuance of a license. Every such application shall state the name of the person, firm or corporation, and the location of the place or places of business for which such license is desired.

Application for licenses as salesmen shall be made in writing to the real estate commissioner, signed by the applicant, setting forth the period of time during which he has been engaged in the business, stating the name of his last employer and the name of the firm then employing him or in whose employ he is to enter. The application shall be accompanied by the recommendation of his employer, if employed, certifying that the applicant is honest, truthful and of good moral character, and recommending that the license be granted to the applicant. The real estate commissioner may require such other sufficient and satisfactory proof as to him may seem desirable in reference to the character of any applicant for license.

§ 7. **Broker's license. Revocation of license.** All applicants for a broker's license shall, in addition to such recommendation, file with the said real estate commissioner a satisfactory bond to the people of the state of California, duly executed by a sufficient surety or sureties, to be approved by said commissioner, in the amount of one thousand dollars conditioned for the faithful performance by such broker of any undertaking as a licensed real estate broker under this act, and on application of any person injured by the failure of a real estate broker to perform his duties or comply with the provisions of this act, the real estate commissioner may grant to such applicant, in his discretion, the right to prosecute such bond in the name of said real estate commissioner. It shall be the duty of the real estate commissioner to see that such bond remains and is kept good.

When any salesman or solicitor shall be discharged by his employer for dishonest dealing, a written statement of the facts in reference thereto shall be filed forthwith with the real estate commissioner, by the employer. Any person injured by dishonest dealing on the part of any salesman or solicitor, or who has personal knowledge of dishonest practice on the part of any salesman or solicitor, may communicate the facts in reference thereto to the real estate commissioner. If, after notifying such salesman or solicitor thereof and affording him an opportunity to be heard concerning the same, it appears to the real estate commissioner that said salesman or solicitor is guilty as charged, said real estate commissioner shall at once revoke his license and he shall not be entitled to receive any license as salesman or broker for a period of two years thereafter.

§ 8. Fees for licenses. The fees for license shall be as follows:

(1) For a broker's license, an annual fee of ten dollars.

(2) For a corporation, the annual fee shall be ten dollars and said license shall entitle the president of said corporation to engage in the real estate business within the meaning of this act. For officers other than the president of a corporation, who shall engage in the real estate business within the meaning of this act, the annual fee shall be two dollars.

(3) For a copartnership, the annual fee shall be ten dollars, and the license issued to said copartnership shall entitle one member of said copartnership to engage in the real estate business within the meaning of this act. For each other member of such copartnership the annual fee shall be two dollars.

(4) For salesmen and solicitors, the annual fee shall be two dollars.

Said license fee shall accompany the application and bond herein provided for, and no license shall be issued for a less period than one year.

It shall be unlawful for an licensed broker to pay a commission for performing any of the acts herein specified to any person who is not a licensed broker, except a licensed salesman or solicitor directly in the employ of a licensed broker, who shall then receive the same only through or from his employer, and except to a regular salaried employee who has been employed for not less than six months by such broker.

§ 9. Acts for which license may be suspended or revoked. Notice to holder. Review of decision. The real estate commissioner shall have the power to temporarily suspend or permanently revoke licenses issued under the provisions of this act at any time where the holder thereof in performing or attempting to perform any of the acts mentioned in section two hereof is guilty of—

(a) Making any substantial misrepresentation, or

(b) Making any false promises of a character likely to influence, persuade or induce, or

(c) A continued and flagrant course of misrepresentation or making of false promises through agents, salesmen, or solicitors, or

(d) Acting for more than one party in the transaction without the knowledge or consent of all parties thereto, or

(e) Any other conduct, whether of the same or a different character than herein above specified, which in the opinion of said commissioner is contrary to good business morals.

Before suspending or revoking any license, the said commissioner shall notify, in writing, the holder of such license of the charges against such holder of such license and afford an opportunity to be heard in person or by counsel in reference thereto. The decision of the said commissioner in revoking any license under this act shall be subject to review, however, as follows:

An appeal may be taken from any decision of the real estate commissioner under this act by filing with the clerk of the superior court of the state of California, in and for the county in which the person affected by this decision resides or has his place of business under the terms of this act, a certified transcript of all papers in the office of the

commissioner relating to such decision, and all evidence taken on the hearing. It shall be the duty of the said commissioner to make and certify to said transcript upon payment to him of a fee of ten cents for each folio and one dollar for the certification. The court shall, upon such appeal, be limited to a consideration of the question whether there has been abuse of discretion on the part of the real estate commissioner in making such decision.

§ 10. **Notice of change of location.** If, after the issuance and delivery of a license to any broker under the provisions of this act, any change shall be made in the place or places of business covered thereby, no such business shall be carried on in any other location until notice of change of location shall be given in writing to the commissioner, and each person, firm or corporation so licensed under the provisions of this act shall be required to have and maintain an office in the state for the transaction of business.

§ 11. **Penalty for violation.** Any person or corporation violating any of the provisions of this act shall, upon conviction thereof, if a person, be punished by a fine of not to exceed the sum of two thousand dollars, or by imprisonment in the county jail or state prison for a term not to exceed two years, or by both such fine and imprisonment in the discretion of the court, or if a corporation, be punished by a fine of not to exceed five thousand dollars.

§ 12. **Investigation of complaints. Employer's license not affected by employee's violation.** The said commissioner shall receive, consider and investigate all verified complaints made in writing as to the action of any person, copartnership, corporation, or salesman or solicitor engaged in the real estate business, whether licensed or unlicensed. If such person, copartnership, corporation, or salesman or solicitor engaged in the real estate business shall not be license, then such commissioner shall cause such person, copartnership, corporation, or salesman or solicitor to be prosecuted under the terms of this act; or, if any person shall prove to be a licensed broker or salesman or solicitor under the terms of this act, and be found guilty of improper dealing, the said commissioner shall have the power to discipline said broker or salesman or solicitor either by a temporary suspension of the license, or by the revocation thereof, as hereinabove provided. The said commissioner shall have the power to subpoena and bring before him any person within the state for the purpose of his investigation, or take the testimony of any such person by deposition in the same manner as prescribed by law in judicial procedure in the courts of this state in civil cases.

No unlawful act or violation of any of the provisions of this act on the part of any salesman, solicitor or employee of any licensed broker in this state shall cause the revocation of the license, partial or otherwise, of the employer of said salesman, solicitor or employee, unless it shall appear to the satisfaction of said commissioner that said employer had guilty knowledge thereof.

§ 13. **License displayed.** The licenses herein provided for when issued shall be prominently displayed in the office of the real estate broker,

and no license issued hereunder shall authorize the licensee to do business except from the location stipulated in the license, and the change of business location without notification to the commissioner and the issuance by him of a new license (which shall be without additional charge) shall automatically cancel the license theretofore issued.

§ 14. **Commissioner of corporations may act.** The governor may appoint the state real estate commissioner as hereinbefore provided, or he may, from time to time, designate and appoint the commissioner of corporations to act as said real estate commissioner, and in that case, all the powers and duties by this act provided for such real estate commissioner shall devolve and be imposed upon said commissioner of corporations, and said commissioner of corporations shall receive for his said services as real estate commissioner, the sum of one thousand dollars per year in addition to the salary provided for by law for said commissioner of corporations, which said additional salary shall be paid out of the "real estate commissioner's fund" provided for herein.

TITLE 11.

AGRICULTURE.

ACT 78d.

An act providing for the appointment of a commission to investigate and report at the forty-second session of the legislature relative to the adoption of a system of land colonization and rural credits, and making an appropriation therefor. [Approved May 17, 1915. Stats. 1915, p. 475.]

Repealed by act approved June 1, 1917; Stats. 1917, p. 1573. See post, Act 3822.

TITLE 12.

ALAMEDA CITY.

ACT 85.

Charter of. [Stats. 1907, p. 1051.]

Amended 1913, pp. 1454, 1720. See new charter of 1917, post Act 85a.

ACT 85a.

Charter of. [Stats. 1917, p. 1752.]

ACT 86.

An act granting to the city of Alameda the salt-marsh, tide and submerged lands of the state of California, including the right to wharf out therefrom to the city of Alameda, and regulating the management, use and control thereof.

[Approved June 11, 1913. Stats. 1913, p. 707.]

Amended 1917, p. 907.

The amendments of 1917 follow:

§ 1. **Tide-lands granted to Alameda. Conditions of grant.** There is hereby granted to the city of Alameda, a municipal corporation of the

state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to the salt marsh, tide and submerged lands, whether filled or unfilled, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit:

That said lands shall be used by said city and its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, warehouses, factories, storehouses, structures and appliances necessary or convenient for the promotion, benefit and accommodation of commerce and navigation, and said city, or its successors, shall not, except as herein authorized, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatever; provided, that said city, or its successors, may grant franchises thereon, for limited periods, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, for purposes consistent with the trusts upon which said lands are held by the state of California and this grant, for a term not exceeding twenty-five years, and on such other terms and conditions as said city may determine, including a right to renew such lease or leases for a further term not exceeding twenty-five years or to terminate the same on such terms, reservations and conditions as may be stipulated in such lease or leases, and said lease or leases may be for any and all purposes which shall not interfere with navigation or commerce, with reversion to the said city on the termination of such lease or leases of any and all improvements thereon, and on such other terms and conditions as the said city may determine, but for no purpose which will interfere with navigation or commerce; subject also to a reservation in all such leases or such wharfing out privileges of a street, or of such other reservation as the said city may determine for sewer outlets, and for gas and oil mains, and for hydrants, and for electric cables and wires, and for such other conduits for municipal purposes, and for such public and municipal purposes and uses as may be deemed necessary by the said city, upon compensation being made for the injury and damage done to any improvement or structure thereon.

Provided, further, that in the granting of any and all such leases the city council shall, whenever in its judgment it can reasonably do so, give preference to the owners of upland abutting on the salt marsh, tide or submerged land proposed to be leased; provided, however, that the said city of Alameda may grant, give, convey and alien such lands or any portion thereof, forever to the United States for public purposes of the United States; provided, however, that no such grant shall be made unless authorized and approved by a vote of the majority of the electors of such municipal corporation voting up on the proposition of making such grant at an election therein, at which such proposition shall have been submitted.

This grant shall carry the right to such city of the rents, issues and profits in any manner hereafter arising from the lands or wharfing out privileges hereby granted.

The state of California shall have, at all times, the right, together with the city if there be no lessee or licensee, or together with the lessee or licensee, if there be a lessee or licensee, to use, without charge, all wharves, docks, piers, slips, quays constructed on said lands or any part thereof, except wharves, docks, piers, slips, quays or other improvements constructed on such lands by the United States for public purposes of the United States, for any vessel or other water craft, or railroad, owned or operated by the state of California.

No discrimination in rates, tolls or charges for use or in facilities for any use or service in connection with wharves, docks, piers, slips or quays or property operated by the city, or property leased, the use of which is dedicated by the lessee or licensee for a public use, shall ever be made, authorized or permitted.

There is hereby reserved in the people of the state of California the right to fish in the waters on which said lands may front with the right of convenient access to said waters over said lands for said purpose, such enjoyment of access and right to fish to be regulated by ordinance of the city of Alameda, so as not to interfere, obstruct, retard or limit the right of navigation or the rights of lessees or licensees under lease or license given.

All leases and licenses granted by ordinance of the city of Alameda prior to the first day of April, one thousand nine hundred seventeen, and the terms and conditions expressed therein are affirmed. [Amendment approved May 24, 1917; Stats. 1917, p. 907.]

§ 2. **Expenditures required.** Section two of said act, approved June 11, 1913, is hereby repealed. [Approved May 24, 1917; Stats. 1917, p. 909.]

TITLE 13.

ALAMEDA COUNTY.

ACT 96b.

An act to increase the number of judges of the superior court of the county of Alameda, and for the appointment of such additional judges.

[Approved May 5, 1917. Stats. 1917, p. 242. In effect July 27, 1917.]

§ 1. **Judges increased in Alameda county.** The number of judges of the superior court in the county of Alameda, state of California, is hereby increased from six to eight.

§ 2. **Appointment. Election.** Within thirty days after this act becomes a law the governor shall appoint two additional judges of the superior court in the county of Alameda, state of California, who shall hold office until the first Monday after the first day of January, A. D. 1919. At the next general election, to be held in November, A. D. 1918, two additional judges of said superior court shall be elected in the said

county, who shall be the successors to the judges appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. **Salary.** The salary of such additional judges shall be the same in amount and be paid in the same manner and at the same time as the salaries of the other judges of the superior court of said county now authorized by law.

TITLE 25.

ANIMALS.

ACT 184a.

An act to create a cattle protection board, to define its powers and duties, to protect the breeders and growers of cattle from theft, to provide for the registration of cattle brands and the licensing of cattle slaughterers and sellers of the meat thereof, to provide for the inspection of cattle and cattle hides for brands and marks, to provide for the collection of license and inspection fees, to provide for the creation of a fund to be known as the cattle protection fund, and to provide penalties for violation of the provisions hereof.

[Approved May 28, 1917. Stats. 1917, p. 1237. In effect July 27, 1917.]

§ 1. **Cattle protection board created. Term. Appointees. Cattle protection fund. Duty of board.** That there be and is hereby created a cattle protection board, to be appointed by the governor of the state of California, which shall consist of three members, two of whom shall be identified with and experienced in the cattle industry of the state of California and the other shall be the state veterinarian. Said board shall elect one of their number chairman. The members of said board shall each receive ten dollars per day for the time by him necessarily employed in discharging the duties required in this chapter; provided, however, that in no one year shall the board be in session more than sixty days, except upon the call of the governor.

The members of said board shall hold office during the pleasure of the governor. Said board is hereby authorized to appoint a secretary, counsel, inspectors, and such clerks as may be necessary to carry out the provisions of this act, and fix the salaries of said appointees. Such per diem and expenses of said members of the cattle protection board, as well as the salaries and expenses of all appointees of said board, including all other additional expenses incurred by enforcement of this act as hereinafter provided, shall be paid out of the cattle protection fund which fund is hereafter provided.

Said board is hereby authorized, and it is made its duty, to exercise a general supervision over, and protect the cattle of this state from theft and to make such rules and regulations as may be necessary to carry out the purposes and intent of this act.

§ 2. **Cattle brands. Record. Districts.** Every person owning cattle in this state except as hereinafter provided may adopt a brand with which to brand his cattle; provided, such brand be not similar to the

brand heretofore adopted by any other person, except by special permit issued by the cattle protection board. Said board shall cause said brands to be recorded in books kept for that purpose. The recording of a brand shall consist of depicting in the brand book a facsimile of the design of the brand adopted, together with an entry in said book bearing a statement of the name, residence, and postoffice address of the person adopting the same, the date the brand was presented for record, the place upon the animal where the brand is proposed to be used, the number of the district and a statement of the location of the range whereon such animals are to range. Before any such record shall be made, proof shall be made that the person applying to have such brand recorded is the owner thereof and entitled to use the same.

The said board may divide the state into a number of districts. Such districts may be changed from time to time, so that all of the persons engaged in raising cattle within the state of California may adopt and record a brand, without requiring that any one brand shall be adopted or recorded in any two contiguous districts; provided, however, that where cattle in two or more contiguous districts are owned by one person, said person shall have the right to the use of said brand in contiguous districts.

§ 3. **Fees. Forfeiture.** The sum of two dollars shall be paid to said board for the recordation of any brand; for the right to the continued use of said brand, under the provisions of this act, the owner thereof shall before the first day of January of each year after its recordation transmit to the board the sum of one and one-half dollars. A failure to make such payment shall forfeit the right to use said brand.

When the right to any brand recorded hereunder shall have become forfeited, said brand shall not be recorded by any other person until after the expiration of one year from the date of the forfeiture thereof.

§ 4. **Unrecorded brand.** No person shall brand any cattle in this state with a brand that has not been recorded under the provisions of this act, nor use any device to obliterate a brand.

§ 5. **Sale of range cattle.** Upon the sale or transfer of any range cattle in this state, the actual delivery of such animal shall be accompanied by a written bill of sale, giving the number, kind and marks and brands of each animal, which bill of sale shall be signed by the party giving the same and acknowledged by him before two subscribing witnesses who have been freeholders of the county for at least two years.

§ 6. **Not applicable to registered, etc., cattle.** It is hereby expressly provided that the provisions in this act shall not apply to registered purebred cattle or purebred cattle which can be identified as being entitled to registration, or to the dressed carcasses of veal with unmarked or unbranded hides thereon, or cows actually used for dairy purposes.

§ 7. **License to slaughter cattle. Bond. Annual fee. Monthly report to board. Forfeiture of license on failure to make statement.** It shall be unlawful for any person to slaughter any cattle or offer for sale, barter or exchange the meat thereof, unless he shall have a license there-

for issued in accordance with the provisions of this act, except as herein otherwise provided.

Every person slaughtering cattle as a business shall do so in a designated slaughter-house, and before he shall begin the business of slaughtering cattle or selling the meat thereof, he shall first procure from the board a license to carry on such business, under the conditions and upon the payment of the fees herein provided for. After procuring such license and before engaging in such business he shall execute a bond to the state of California, in the penal sum of one thousand dollars ($1,000) to be approved by the secretary of the board, conditioned that such person shall not slaughter, sell or expose for sale any cattle or the meat thereof, without first being the legal and equitable owner thereof, or being authorized to so slaughter, sell or expose for sale such animal, or the meat thereof, by such owner, and that in case he shall violate any of the provisions hereof, he shall pay therefor double the value of such animal. The amount so recovered shall be paid as follows: One-half to the owner of such animal and the remaining one-half to the cattle protection fund.

Said board shall grant to every applicant therefor, who complies with all the provisions of this act a license to slaughter cattle and sell the meat thereof for the unexpired portion of the calendar year in which said license is granted. Every applicant for such a license shall pay to said board the following annual fee which shall be paid in advance: For applicants who slaughter less than ten head per month, one dollar per annum. For applicants who slaughter more than ten head and less than fifty head per month, ten dollars per annum. For applicants who slaughter more than fifty head per month, twenty-five dollars per annum. For a shorter term than one year a proportionate part of said fee shall be paid. The applicant for such license shall state in his application where his slaughter-house is located, and during the term of such license he shall not slaughter any cattle at any other place than that specified in his license. If the holder of a license desires to change the location of his slaughter-house, he shall apply to said board to have such license transferred and the board may reissue such license without any additional fee.

Every holder of such a license shall, at the expiration of each calendar month, make a written report and send the same by registered mail to said board. Such report shall include the following:

(a) The number and sex of the cattle slaughtered in such establishment during the calendar month just past.

(b) The names and addresses of persons from whom said cattle were purchased or otherwise obtained.

(c) The brands and marks on said cattle.

(d) The dates on which said cattle were purchased or otherwise obtained and the dates on which said cattle were slaughtered.

Said statement shall be signed by such licensee or his duly authorized agent. Upon failure or neglect of said licensee or his duly authorized agent for a period of fifteen days to file such a statement in the manner as herein provided, the said board shall have the power and it shall be its duty to forfeit the license of such licensee; and thereafter it shall

be unlawful for the owner of said slaughtering establishment, or for any other person to slaughter any cattle in said establishment until a new application is made by him to said board, accompanied by a fee of twenty-five dollars; provided, however, that said board shall have the power and it shall be its duty to refuse to renew the license of any slaughterer who has knowingly slaughtered cattle without the consent of the owner thereof.

§ 8. **Record by butcher of meat purchased. Slaughter by ranchman for own consumption.** Every peddler, butcher or retailer of meats, purchasing the meat of any bovine animal, must enter in a book to be kept for that purpose and exhibit the same on demand, the name of the person from whom said meat was purchased or otherwise obtained, the date of said purchase and the quantity so purchased.

It shall be unlawful for any peddler or retailer of meat, or person in control of any butcher-shop, to purchase the meat of any slaughtered bovine animal from any person not known to him to be licensed under the provisions of this act.

Any person who fails on demand to inform any officer of this state where and from whom he has obtained any meat of any bovine animal that he has in his possession, shall be deemed guilty of a misdemeanor.

Nothing in this act shall be so construed as to prohibit an owner of property, or a ranchman located on a definite property as a tenant, lessee or purchaser under contract, from slaughtering cattle in small numbers on said premises for his own consumption, and nothing herein shall be so construed as to prohibit such ranchman from selling or giving away a portion thereof; provided, that such person shall not be required to take out a license.

§ 9. **Hides retained. Record of cattle slaughtered.** The hides of all such cattle slaughtered by the owner thereof, or removed from any cattle which have died from any cause, shall be retained in the possession of the owner where the same may be inspected, with the brands attached thereto, and without any alteration or disfiguration thereof, for a period of at least fifteen days after the death of said cattle, or until said hides are inspected.

Every ranchman, who so slaughters cattle on such premises, shall keep a record in a book to be kept for that purpose of all the cattle so slaughtered by him, with a description thereof, including all the marks and brands of such slaughtered cattle, the date of slaughter, and shall at the end of each month, make a true and correct copy of such record and send the same by registered mail to the office of the cattle protection board, and shall likewise exhibit the said record on demand of any officer of this state.

§ 10. **No cattle slaughtered until inspected.** No cattle except cattle shipped for slaughter and which have been inspected as herein provided prior to shipment, shall be slaughtered until they shall have been first inspected and certified to as being the property of the person slaughtering same or causing same to be slaughtered or being duly authorized by the owner thereof to slaughter said cattle; provided, that any per-

son licensed hereunder to slaughter cattle after twenty-four hours' notice in writing, addressed to the local inspector demanding his presence at a specified time and place for the purpose of inspecting such cattle for slaughtering, may, without the certificate of inspection of said inspector slaughter said cattle, providing he makes a written statement designating the general description of the animal or animals slaughtered, such as the age, color, weight, etc., and specifying in detail the earmarks and brands of such animal or animals; and provides, further, that he retain the hides of such animal or animals for at least fifteen days thereafter as hereinbefore provided.

§ 11. **Certificate of brand, etc., before shipment.** It shall be unlawful for any common carrier to receive any cattle, or the hides of any cattle, for transportation to points within or without this state until such carrier shall have been furnished with duplicate certificates signed by an inspector, showing, in the case of cattle, the brands and earmarks of such cattle, the number of cattle of each earmark and brand, the names of shipper and consignee and also the origin and destination of said cattle. In the case of cattle hides, the certificates shall state the number of hides, the names of shipper and consignee and also the origin and destination of said hides. One copy of said certificates shall be mailed forthwith by the agent or other person in control of the common carrier at the point at which said cattle are received for shipment, to the consignee.

§ 12. **Inspection of cattle to be shipped.** It shall be the duty of inspectors to inspect all cattle for marks and brands which are offered for transportation to any common carrier at the loading stations thereof.

If upon such inspection cattle shall be found not belonging to the shipper, all such cattle shall be taken by the inspector and dealt with in accordance with the rules of the board in such cases made.

Inspectors must inspect all cattle subject to inspection immediately, and when inspected, the one in charge thereof shall at once pay to the inspector therefor the sum of five cents per head, whereupon the inspector shall certify that said cattle have been inspected.

§ 13. **Volumes for recordation of marks and brands.** It shall be the duty of the said board to prepare volumes for the recordation of said marks and brands, and to keep a true record of all its official transactions. When cattle or the hides thereof have been shipped or slaughtered, each record thereof must be entered under the name of the owner of said mark or brand, and must be entered in such a manner as to disclose under the record of each particular mark or brand, the number of cattle bearing any other marks or brands. An index shall be kept of unrecorded brands, as well as of those that have been recorded under the provisions hereof.

§ 14. **Driving cattle off range.** Any person, not being the owner, or having the right of possession, of any cattle, who shall be found driving such cattle off its usual range, without the consent of the owner thereof, shall be guilty of grand larceny.

§ 15. **Report of fees by secretary.** The secretary of the cattle protection board, at least as often as once each month, shall report to the state controller the total amount of fees collected, and at the same time he shall pay into the state treasury the entire amount of such receipts. All such receipts shall be credited to the cattle protection fund, which fund is hereby created, and shall be held subject to the uses of the cattle protection board, as defined in this act.

§ 16. **"Range." "Person." "Cattle."** The term "range" for the purpose of the interpretation and application of this act shall be understood to mean the inclosed or uninclosed lands outside of cities, towns and villages in this state, whether of the public domain or in private ownership, upon which by custom, license or otherwise, cattle are kept or permitted to roam and feed.

The term "person" wherever used includes every person, persons, firm, association or corporation.

The term "cattle" wherever used includes every kind of animal of the bovine species.

§ 17. **Penalty.** Any person violating any provisions of this act shall, unless otherwise specifically designated herein, be guilty of a misdemeanor.

§ 18. **Repealed.** All acts and parts of acts in conflict herewith are hereby repealed.

TITLE 30.

APPROPRIATIONS.

ACT 217.

An act making appropriations for the support of the government of the state of California for the sixty-ninth and seventieth fiscal years.

[Approved May 14, 1917. Stats. 1917, p. 488. In effect immediately.]

The general appropriation act of 1917 contained the following provisions:

§ 2. **Expenditures for printing, etc.** The various sums herein appropriated for printing, binding, ruling, materials and all other work provided for by law to be done in the state printing office shall be expended only upon requisitions to be approved by the state board of control, and said board is authorized and given power to reduce the amount of such requisitions either in whole or in any item thereof. When any state publication is printed and paid for out of any appropriation in this act, the disposition of the same shall be subject to the provisions of section two thousand two hundred ninety-five of the Political Code of the state of California. The sums that are herein appropriated for expenses of the senate and assembly shall be disbursed under the direction of the bodies to which they respectively belong, and shall not be subject to any of the provisions of section six hundred seventy-two of the Political Code; provided, that the state controller

shall not be required to draw warrants until the original claims and vouchers, itemized and properly sworn to, are filed with him. The sums herein appropriated for the expenses of the national guard shall be audited by the adjutant-general, as required by sections two thousand eighty-three and two thousand eighty-five of the Political Code. Not more than five hundred dollars of the money hereby appropriated for the support of the institutions of the state shall be used in each fiscal year for permanent improvements, but shall be used solely for the payment of salaries and traveling expenses of the commissioners or directors having charge of the same (when such salaries or expenses are allowed by law), the salaries of employees, the purchase of material and supplies for the use of said institutions, and for such incidental and current expenses as may be necessarily incurred for the proper management and support of said institutions.

§ 3. **Biennial statement of state officers. Original bills required. Revolving fund.** All persons having demands against the state, the various state officers, and the officers of all institutions under the control of the state, except the governor, to whom and for which appropriations other than salaries are made under the provisions of this act, shall, with their biennial report, submit a detailed statement, under oath, of the manner in which all appropriations for their respective departments and institutions have been expended, and the state board of control is hereby expressly prohibited from allowing any demand payable out of any such appropriations until the same are presented in itemized form, accompanied by affidavit and voucher for money expended by them, stating specifically the service rendered, by whom performed, time employed, distance traveled, and necessary expenses thereof; if for articles purchased, the name of each article, together with the price paid for each and of whom purchased, with the date of the purchase; provided, that in instances where the duties of any state officer or board make necessary the use of moneys for purposes of a confidential nature, the board of control may audit claims for such expense without requiring itemization or vouchers; but such claims must be accompanied by a statement of the facts surrounding the expenditure, which statement must be filed in the office of the board of control; provided, further, that the total amount so allowed for such confidential purposes from the moneys herein appropriated shall not exceed in any one fiscal year the sum of two thousand dollars. All bills and vouchers, which shall be presented for supplies furnished or services rendered, shall be original bills and vouchers of the parties furnishing supplies and rendering services; provided, that no officer shall use or appropriate any money, appropriated by this act, for any purpose whatsoever, unless authorized thereto by law; and provided, that any officer, board, commission or department for whom any appropriation is made herein, may, with the permission of the board of control, and without at the time furnishing vouchers and itemized statements, draw from such appropriation a sum not to exceed one thousand dollars for any such officer, board, commission or department. The sum so drawn shall be used as a revolving fund where cash advances are necessary, and at

the close of each fiscal year, or at any other time, upon the demand of the board of control, must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control and the controller.

§ 4. **Amounts expendable monthly.** Not more than one twenty-fourth of the amount appropriated under this act for each department or institution for the two years ending June thirtieth, nineteen hundred seventeen, shall be expended during any one month without the consent of the state board of control, and not more than one-half of such appropriation shall be expended during the sixty-seventh fiscal year, unless the same has been expressly authorized by this act.

§ 5. **Excess expenditures forbidden.** The officers of the various departments, boards, commissions and institutions for whose benefit and support appropriations are made in this act are expressly forbidden to make any expenditure in excess of such appropriations, except the unanimous consent of the state board of control be first obtained, and a certificate, in writing, duly signed by every member of said board, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the state in violation of the provisions of this section shall be absolutely null and void; and shall not be allowed by said state board of control nor paid out of any state appropriations; provided, that any member of any such department, board, commissions or institutions, who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act, except by the unanimous consent of the state board of control, and the certificate in this section provided to be first obtained, shall be liable on his official bond for the amount of such indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation to whom such indebtedness is owing.

§ 6. **Fire insurance.** No money appropriated by this act shall be used to renew, or pay for the renewal of any fire insurance on any public building or property, nor to effect or pay for any new insurance on any public building or property, except the state printing office and its contents.

§ 7. **Urgency measure.** This act, inasmuch as it provides for an appropriation for the usual current expenses of the state shall, under the provisions of section one, of article four, of the constitution of the state of California, take effect immediately.

TITLE 32.

ARCATA.

ACT 223.

An act granting to the city of Arcata tide and submerged lands of the state of California, including the right to wharf out therefrom to the

city of Arcata, and regulating the management, use and control thereof.

[Approved May 18, 1917. Stats. 1917, p. 708. In effect July 27, 1917.]

§ 1. Tide-lands granted to Arcata. Use of lands. Right to rents. Right of state to use wharves. No discrimination in rates. Right to fish reserved. There is hereby granted to the city of Arcata, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to all tide and submerged lands, whether filled or unfilled, situate in the county of Humboldt, state of California, and described as follows, to wit:

Commencing at a point south eighty-nine and one-half degrees west five and ninety-one one hundredths chains, and south thirty-one degrees fifty-two minutes west sixteen and twenty-seven one hundredths chains from the center of section thirty-two, township six north, range one east of Humboldt meridian, Humboldt county, California, running thence north two hundred fifty feet to south side of dike; thence north seventy-five degrees west one thousand seven hundred fifty feet following the south side of the dike and crossing Daniel's slough to a point on the section line between sections thirty-one and thirty-two; thence westward following the south side of the dike to a point on said dike south seventy-nine degrees west six thousand four hundred fifty feet; thence south six thousand four hundred forty feet to a point one thousand sixty feet due west of Beacon number nine; thence east four thousand feet to a point seven hundred eighty feet south of "pier," as marked on United States hydrographic chart Humboldt bay survey 1911, sheet three, thence north fifty-four and one-half degrees east two thousand three hundred seventy-five feet to the end of the fourth course as recited in the description of the tide-lands granted to the city of Arcata (approved June 11, 1913); thence north eighty degrees east five thousand seven hundred fifty feet to a point on the west side of the right of way of the Northwestern Pacific Railroad Company; thence following the west line of the Northwestern Pacific Railroad Company's right of way to a point in the center of Butcher's slough north twenty-seven degrees and fifty minutes west four thousand five hundred feet; thence north fifty-two and one-half degrees west six and twelve one-hundredths chains; thence north seventy-one and one-half degrees west four and five one-hundredths chains; thence north fifty-three and one-half degrees west eleven and twenty-six one-hundredths chains; thence north thirty-one and one-half degrees west two and six one-hundredths chains to the place of beginning.

Said lands shall be forever held by said city, and by its successors, in trust for the uses and purposes and upon the express conditions following, to wit:

That said lands shall be used by said city and its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any

individual, firm or corporation for any purpose whatever; provided, that said city, or its successors, may grant franchises thereon, for limited periods, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, for purposes consistent with the trusts upon which said lands are held by the state of California and with the requirements of commerce or navigation at said harbor, for a term not exceeding twenty-five years, and on such other terms and conditions as said city may determine, including a right to renew such lease or leases for a further term not exceeding twenty-five years or to terminate the same on such terms, reservations and conditions as may be stipulated in such lease or leases, and said lease or leases may be for any and all purposes which shall not interfere with navigation or commerce, with reversion to said city on the termination of such lease or leases of any and all improvements thereon, and on such other terms and conditions as the said city may determine, but for no purpose which will interfere with navigation or commerce; subject also to a reservation in all such leases or such wharfing out privileges of a street, or of such other reservation as the said city may determine for sewer outlets, and for gas and oil mains, and for hydrants, and for electric cables and wires, and for such other conduits for municipal purposes, and for such public and municipal purposes and uses as may be deemed necessary by the said city; provided, however, that each person, firm or corporation or their heirs, successors or assigns now in possession of land or lands abutting on said lands within the boundaries of the city of Arcata, shall have a right to obtain a lease for a term of twenty-five years from said city of said land and wharfing out privileges therefrom with a right of renewal for a further term of twenty-five years pursuant to the provisions of this act and on such terms and conditions as said city may determine and specify, subject to the right of said city to terminate said lease at the end of the first twenty-five years or refuse to renew the same, or to terminate the lease so renewed during the term of such renewed lease on such just and reasonable terms for compensation for improvements at the then value of said improvements as said city may determine and specify.

Upon obtaining such lease and wharfing out privileges such person, firm or corporation, their heirs or assigns, shall quitclaim to said city any right they or any of them may claim or have to the said lands hereby granted.

This grant shall carry the right to such city of the rents, issues and profits in any manner hereafter arising from the lands or wharfing out privileges hereby granted.

The state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands or any part thereof, for any vessel or other water craft, or railroad owned or operated by the state of California.

No discrimination in rates, tolls or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors in the management, conduct or operation of any of the utilities, structures or appliances mentioned in this section.

There is hereby reserved in the people of the state of California the right to fish in the waters on which said lands may front with the right of convenient access to said waters over said lands for said purpose.

TITLE 38.

ASEXUALIZATION.

ACT 248.

An act to provide for the asexualization of inmates of state hospitals for the insane, the Sonoma State Home, of convicts in the state prisons, and of idiots, and repealing an act entitled "An act to permit asexualization of inmates of the state hospitals and the California Home for the Care and Training of Feeble-minded Children and of convicts in the state prisons," approved April 26, 1909.

[Approved June 13, 1913. Stats. 1913, p. 775.]

Amended 1917; Stats. 1917, p. 571.

The amendment of 1917 follows:

§ 1. Asexualization of inmates of hospitals for insane before release. Before any person who has been lawfully committed to any state hospital for the insane, or who has been an inmate of the Sonoma State Home, and who is afflicted with mental disease which may have been inherited and is likely to be transmitted to descendants, the various grades of feeble-mindedness, those suffering from perversion or marked departures from normal mentality or from disease of a syphilitic nature, shall be released or discharged therefrom, the state commission in lunacy may in its discretion, after a careful investigation of all the circumstances of the case, cause such person to be asexualized, and such asexualization whether with or without the consent of the patient shall be lawful and shall not render the said commission, its members or any person participating in the operation liable either civilly or criminally.

TITLE 47.

BANKS AND BANKING.

ACT 297.

An act to define and regulate the business of banking.

[Approved March 1, 1909. Stats. 1909, p. 87.]

Amended 1911, pp. 7, 958, 1003, 1008; 1911 (Ex. Sess.), pp. 2, 115; 1913, pp. 136, 335; 1915, pp. 297, 1101, 1138, 1139; 1917, pp. 586, 598, 622.

§ 7. Foreign corporations. Capital and deposits kept separate. Loans. Income as profits. Attorney. Service of process. Trust company as executor. Branch office prohibited. May lend money. No foreign corporation shall transact a banking business in this state without first complying with all the requirements of the laws of this state relative to banks as defined in this act, and without having assigned to its business in this state the amount of paid-up capital and surplus required by this act for the transaction of such business within this state. No foreign banking corporation shall transact business in this state until

such corporation has made the assignment of capital required by this section and has received a certificate from the superintendent of banks; provided, that a foreign banking corporation shall not be permitted to accept deposits of money in this state but may receive a certificate from the superintendent of banks to transact in this state only the business of buying or selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans; and provided, further, that those foreign banking corporations that now have power to do a banking business in this state and which now receive deposits of money shall be permitted to continue to accept money on deposit. Any foreign banking corporation transacting business in this state shall become subject to the supervision of the state superintendent of banks. Every foreign banking corporation, including those which were on January second, nineteen hundred thirteen, transacting business in this state, which receives any deposits or transacts any other banking business or transacts its business in such a manner as might lead the public to believe that its business is that of a bank shall conduct all its business in accordance with the statutes governing incorporated banking institutions organized under the laws of this state. The capital of any such foreign banking corporation assigned to its business in this state and all funds and deposits of money received by any such corporation in this state or for or in connection with its business in this state and all accounts and transactions of said business transacted by any such foreign corporation in this state shall be kept separate and apart from the general business, assets and accounts of such foreign corporation in the same manner as if the business of such foreign corporation conducted within this state was that of a separate and independent corporation organized under the laws of this state for the purpose of doing a banking business and all of the provisions of this act affecting investments, loans of money, receiving deposits and conducting business in any respect shall be deemed to apply to such assigned capital, investments, loans, deposits, assets, funds and business in the same manner as if such assigned capital, investments, loans, deposits, assets, funds and business were that of such separate and independent corporation; provided, that loans may be made by any such foreign corporation based on its entire paid-up capital and surplus in case such foreign corporation shall have assigned to its business in this state a paid-up capital and surplus as above provided equal to twenty per centum of the deposit liability of such branch agency or office to residents of this state. Such funds and investments or loans thereof shall be appropriated solely to the security and payment of such deposits, and shall not be mingled with the investments of the capital stock or other money or property belonging to such corporation or be liable for the debts or obligations thereof. All income received from the investment of said funds over and above such funds as may be paid to depositors as interest or shall be carried to the surplus fund, as provided in section twenty-one of this act, shall accrue as profits to the corporation and may be transferred to its general funds. No such foreign corporation shall transact any banking business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent his successor in office, its

true and lawful attorney, upon whom all process issued by authority of or under any law of this state may be served, with the same effect as if such corporation was formed under the laws of this state and had been lawfully served with process therein. Such service upon such attorney shall be deemed personal service on such corporation. The superintendent of banks shall forthwith forward by mail, postage prepaid, a copy of every process served upon him under the provisions of this section, addressed to the manager or agent of such corporation, at its principal place of business in this state. For each copy of process, the superintendent of banks shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of the service, to be recovered by him as a part of his taxable costs if he succeed in the suit or proceeding. No foreign corporation shall have or exercise in this state the power to receive deposits of trust moneys, securities or other personal property from any person or corporation or any of the powers specified in section six of this act, nor have or maintain an office in this state for the transaction of, or transact, directly or indirectly, any such or similar business, except that a trust company incorporated in another state may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of section ninety of this act and may be appointed and may accept appointment and may act in this state as executor of or trustee under the last will and testament of any deceased person, upon giving the bond required in such cases of individuals unless waived by the last will and testament making such appointment and by taking and subscribing an oath for faithful performance of such trust by the president, vice-president, secretary, manager or trust officer of said corporation; provided, that such superintendent of banks, for the time being, shall be attorney of such foreign corporation qualifying or acting in this state as such executor or trustee, upon whom process against such foreign corporation may be served in any action or legal proceeding against such executor or trustee affecting or relating to the estate or property represented or held by such executor or trustee, or any act or default of such foreign corporation in reference to such estate or property, and it shall be the duty of any such foreign corporation so qualifying or acting to file in the office of said superintendent of banks a copy of its articles of incorporation, or of the statute chartering such corporation, certified by its secretary under its corporate seal, together with the postoffice address of its home office, and a duly executed appointment of said superintendent of banks as its attorney to accept service of process as above provided, and said superintendent of banks, when any such process is served upon him, shall at once mail the papers so served to the home office of such corporation; and provided, further, that no foreign corporation which may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of section ninety of this act or having authority to act as executor of or trustee under the last will and testament of any deceased person shall establish or maintain, directly or indirectly, any branch office or agency in this state, or shall in any way solicit, directly or indirectly, any business as executor or trustee therein, and that for any violation of this proviso, the court having jurisdiction of such executor or trustee in said proceeding may in its discretion, revoke the right of such foreign corporation

thereafter to act as executor or trustee therein; provided, that nothing in this act shall limit or affect the right of any foreign corporation doing a banking business in this state, to lend within this state, moneys of such corporation which do not form a part of the moneys, deposits or assets of such corporation assigned or belonging to its business in this state.

This section shall not be construed to prohibit foreign banking corporations, which do not maintain an office in this state for the transaction of business, from making loans in this state secured by mortgages on real property, nor from accepting assignments of mortgages covering real property situated in this state, nor from making loans through correspondents which are engaged in the business of banking in this state under the laws of this state. [Amendment approved May 17, 1917; Stats. 1917, p. 598.]

§ 8. Copy of articles of incorporation. Affidavit. Every corporation, at the time it applies for a certificate of authority to do a banking business, must file with the superintendent of banks a certified copy of its articles of incorporation, or of the statute chartering such corporation, a certified copy of its by-laws, and also a certified copy of all instruments amending or altering such articles of incorporation or charter or by-laws. Thereafter a certified copy of each amendment or certificate designed to increase or decrease the capital stock, to change the number of the directors, to amend the articles of incorporation, to change the principal place of business, or the name of such corporation, or to effect any other organic change shall likewise be so filed before such instrument takes effect. There must also be filed in the office of the superintendent of banks before he shall issue his certificate a certified copy of the affidavit required by section two hundred ninety a of the Civil Code. Each certification required by the provisions of this section other than that of by-laws must be by the secretary of state. [Amendment approved May 17, 1917; Stats. 1917, p. 601.]

§ 9. Approval for opening branch office. Capital. Discontinuance. Certificate of authority. Fee. Savings banks in schools. Penalty. No bank in this state, or any officer or director thereof, shall hereafter open or keep an office other than its principal place of business, without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office; provided, that no bank or any officer or director thereof, shall open or maintain any such branch office unless the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act by the sum of twenty-five thousand dollars for each branch office opened and maintained in the place where its principal business is transacted; and provided, that for each branch office opened or maintained by any bank, other than a bank transacting only the business described in section six of this act, in any place in this state other than the place where the principal business of such bank is transacted, the capital of such bank, actually paid in,

in cash, shall exceed the amount required by this act in the sum required by this act for every bank hereafter organized in the place where each branch office is to be opened or maintained, exclusive of the capital required for a trust department; and provided, also, that for each branch office opened or maintained by any corporation which has power to transact only such business as is described in section six of this act or in section four hundred fifty-three *x* of the Civil Code, in any place in this state other than the place where the principal business of such corporation is transacted, the capital of such corporation, actually paid in, in cash, shall exceed the amount required by this act in the sum of twenty-five thousand dollars; and provided, further, that no branch office may be discontinued without the previous written approval of the superintendent of banks.

Every bank, before it opens a branch office, shall obtain the certificate of authority of the superintendent of banks for the opening of each of said branch offices. The applicant shall pay for such certificate a fee of fifty dollars; provided, however, that, in order to encourage saving among the children of the schools of this state, a bank may, with the written consent of and under regulations approved by the superintendent of banks and, in the case of public schools, by the board of education or board of school trustees of the city or district in which the school is situated, arrange for the collection of savings from the school children by the principal or teachers of such schools or by collectors. The principal, teacher or person authorized by the bank to make collections from the school children shall be deemed to be the agent of the bank and the bank shall be liable to the pupil for all deposits made with such principal, teacher or other person, the same as if the deposits were made by the pupil directly with the bank. Every bank and every such officer or director violating the provisions of this section shall forfeit to the people of the state the sum of one hundred dollars for every day during which any branch office hereafter opened shall be maintained without such written approval. [Amendment approved May 17, 1917; Stats. 1917, p. 601.]

§ 10. Qualifications for bank director. Bank without capital stock. No person shall be eligible for election as director of a bank having a capital stock unless he is a stockholder of the bank, owning, in his own right, shares thereof of the par value of at least five hundred dollars; and every person elected to be director who, after such election, shall cease to be the owner in his own right of the amount of such stock aforesaid, or shall hypothecate or in any way pledge such stock as security for any loan or debt shall immediately notify the superintendent of banks in writing of such sale or hypothecation and such director may be removed from the office of director by the superintendent of banks; provided, however, that any executor or executrix, administrator or administratrix holding shares of a bank of the par value of five hundred dollars, in his or her representative capacity shall be eligible for election as a director thereof. If a bank be organized without capital stock, no person shall be eligible as a director thereof unless he is both a member and a depositor of such bank. [Amendment approved May 17, 1917; Stats. 1917, p. 602.]

§ 12c. Foreign corporations may lend money in state. Representative. License. Fee. Any corporation organized under the laws of any country or state other than this state which has complied with all of the laws of this state pertaining to foreign corporations and is not engaged in the business of banking or receiving money on deposit in this state may lend money or buy and sell bonds in this state and, for that purpose, may maintain offices in this state, and sue and be sued in this state under its proper corporate name, notwithstanding any prohibitions contained in this act as to the use of any words in the name, signs or advertising matter of corporations not under the supervision of the superintendent of banks; provided, that nothing in this act shall be construed to prohibit any representative of any foreign banking corporation from maintaining an office in this state as the office of a representative and not the place of business of a bank or trust company, nor to prohibit such representative from making use of any office sign at the place where such representative's office is maintained having thereon words indicating that such office is the place of business of a representative of a foreign bank or trust company; and provided, further, that any representative of a foreign bank maintaining an office within this state may make use of such foreign bank's letterheads, circulars and other printed matter in the transaction of business as such representative; and provided, further, every representative of any foreign bank or trust company before opening an office as a representative shall have received a license from the superintendent of banks to open such representative's office. Such license may be issued upon application to the superintendent of banks and the payment of an annual license fee of fifty dollars and may be refused or revoked by the superintendent of banks at his discretion. [Amendment approved May 17, 1917; Stats. 1917, p. 603.]

§ 13. Corporation forbidden to engage in banking. Express companies, etc., may transmit money. No corporation, domestic or foreign, other than a corporation formed under or subject to the banking laws of this state or of the United States, except as permitted by such laws, or other than an express company as hereinafter defined in this section, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying and selling bills of exchange, or of issuing bills, notes or other evidences of debt for circulation as money, or of engaging in any other form of banking; nor shall any such corporation, except an express company having contracts with railroad companies for the operation of an express service upon the lines of such railroad companies, or a transatlantic steamship company, or a transpacific steamship company, or a telegraph company, or a telephone company, possess the power of receiving money for transmission or of transmitting the same, by draft, traveler's check, money order or otherwise. [Amendment approved May 17, 1917; Stats. 1917, p. 603.]

§ 20. Total reserves of commercial banks. How maintained. If member of federal reserve bank. Penalty. Reserve depositaries. Required capital; New York banks. Restoration of reserves. Definitions of

"reserves." Every commercial bank shall maintain total reserves against its aggregate deposits, exclusive of state, county and municipal deposits for the repayment of which bonds have been deposited as security, as follows:

1. Eighteen per centum of such deposits if such bank has its principal place of business in a city having a population of one hundred thousand or over.

2. Fifteen per centum of such deposits, if such bank is located in a city having a population of fifty thousand or over and less than one hundred thousand.

3. Twelve per centum of such deposits if such bank is located elsewhere in the state.

At least one-third of the total reserves shall be maintained as reserves on hand and shall consist of gold coin, gold bullion, United States gold certificates or United States notes; in addition thereto, at least one-sixth of the total reserves shall be maintained as reserves on hand and shall consist of gold coin, gold bullion, United States gold certificates, United States notes or any form of currency authorized by the laws of the United States, and the remainder of the total reserves required by the provisions of this section shall be maintained as reserves on deposit or as reserves on hand; such reserves on hand to consist of gold coin, gold bullion, United States gold certificates, United States notes or any form of currency authorized by the laws of the United States.

If any bank shall have become a member of a federal reserve bank, it may maintain as reserves on deposit with such federal reserve bank such portion of its total reserves as shall be required of members of such federal reserve bank.

If any bank shall not maintain the total reserves required the superintendent of banks may impose a penalty upon it, based upon the length of time such encroachment upon its total reserves amounting to one per centum or more of its aggregate deposits shall continue, at the following rates:

1. At the rate of six per centum per annum upon any such encroachment not exceeding two per centum of such deposits.

2. At the rate of eight per centum per annum upon any additional encroachment in excess of two and not exceeding three per centum of such deposits.

3. At the rate of ten per centum per annum upon any additional encroachment in excess of three and not exceeding four per centum of such deposits.

4. At the rate of twelve per centum per annum upon any additional encroachment in excess of four per centum of such deposits.

The superintendent of banks shall, in his discretion, upon the nomination of any bank, designate a depositary or depositaries for the reserves on deposit of such bank provided for by this act. Except as otherwise provided in this section, such depositary shall be a bank or national banking association located in this state. Every reserve depositary, which has its principal place of business in a judicial township or in a city located in this state in which the populaton is less than fifty thousand, shall have at all times as its total reserves an amount equal to the total reserves required by the provisions of this section for every bank

which has its principal place of business in a city having a population of fifty thousand or over and less than one hundred thousand. But no bank or national banking association shall hereafter be designated as a depositary of any such reserves unless it shall have a combined capital and surplus of not less than the following amounts:

1. Two hundred fifty thousand dollars, if located in a city which has a population of three hundred thousand or over;

2. Two hundred thousand dollars, if located in a city which has a population of one hundred thousand or over and less than three hundred thousand;

3. One hundred fifty thousand dollars, if located in a city which has a population of fifty thousand or over and less than one hundred thousand;

4. One hundred thousand dollars, if located elsewhere in the state.

Such depositary may also be a banking corporation with a capital and surplus of one million dollars or more, located in the cities of New York, Chicago, Boston, St. Louis, or Philadelphia.

If the total reserves of any bank shall be less than the amount required by this section, such bank shall not increase its liabilities by making any new loans or discounts, otherwise than by discounting bills of exchange on sight, or by paying any dividends from profits until the full amount of its total reserves has been restored. The superintendent of banks may notify any bank whose total reserves shall be below the amount herein required, to restore such total reserves; and, if it shall fail for thirty days thereafter to restore such total reserves, such bank shall be deemed insolvent and may be proceeded against under the provisions of this act; provided, that all deposits of money herein permitted or required shall comply with the provisions of section forty-three of this act.

The term, "reserves on hand," when used in this act, means the reserves against deposits kept, pursuant to the provisions of this act, in the vault of any bank or in any safety deposit box in any other bank in this state, said box to be under the exclusive control of the depositing bank.

The term, "reserves on deposit," when used in this act, means the reserves against deposits maintained by any bank pursuant to this act in reserve depositaries, or in a federal reserve bank of which such bank is a member, and not in excess of the amount authorized by this act.

The term, "total reserves," when used in this act, means the aggregate of reserves on hand and reserves on deposit maintained pursuant to the provisions of this act.

The term, "reserve depositary," when used in this act, means a bank, trust company or banking corporation designated by the superintendent of banks on the nomination of the depositing bank as a depositary for reserves on deposit. [Amendment approved May 17, 1917; Stats. 1917, p. 604.]

§ 28. Signs must show kind of bank. "Branch." Every bank in this state must, on all its window signs and in advertising, and on letter-heads and other stationery on which its business is transacted, use the word "savings" if it conducts a savings business, or the word "trust" if it conducts a trust business, and the word "commercial" if it conducts a commercial business. Every bank, which maintains a branch office, must on all window signs and in advertising, and on letter-heads and other

stationery on which the business of said branch office is transacted, use in letters and type, equal in prominence to that used in its corporate name, the word "branch" and the name of the place where its principal business is located. [Amendment approved May 17, 1917; Stats. 1917, p. 606.]

§ 31a. Consolidation of banks. Ratification by stockholders. Notice. Publication. Articles of incorporation and consolidation. Certificate of authorization. Obligations not impaired. Right to increase stock. Any bank incorporated under the laws of this state may consolidate with one or more banks incorporated under the laws of this state, its capital stock, properties, trusts, claims, demands, contracts, agreements, obligations, debts, liabilities and assets of every kind and description, upon such terms and in such manner as may be agreed upon by their respective boards of directors, a copy of which agreement must be filed in the office of the superintendent of banks; provided, that such agreement shall be subject to the approval of the superintendent of banks and shall not be valid until such approval be obtained; provided, further, that no such consolidation shall take effect until such agreement shall have been ratified and confirmed in writing by the stockholders of the respective banks holding of record at least two-thirds of the issued capital stock of their respective banks, or such agreement may be submitted to the stockholders of each of such corporations at a meeting thereof to be called upon notice specifying the time, place and object thereof, addressed to each stockholder at his last known postoffice address and deposited in the postoffice, postage prepaid, at least two weeks prior to the date fixed for said meeting, and published for at least two successive weeks, prior to the date of said meeting, in a newspaper in each of the counties of the state in which any of such banks shall have its principal place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately by the vote or ballot of the stockholders owning at least two-thirds of the stock of each such bank, the same shall be the agreement of such banks. In case of such consolidation "articles of incorporation and consolidation" must be prepared, setting forth:

First—The name of the new corporation;

Second—The purpose for which it is formed;

Third—The place where its principal business is to be transacted;

Fourth—The term for which it is to exist, which shall not exceed fifty years;

Fifth—The number of its directors (which shall not be less than three) and the names and residences of the persons appointed to act as such until their successors are elected and qualified;

Sixth—The amount of its capital stock and the number of shares into which it is divided;

Seventh—The amount of stock actually subscribed, and by whom;

Eighth—The names of the constituent corporations.

Said articles of incorporation and consolidation must be signed and countersigned by the president and secretary of each constituent corporation and sealed with their corporate seals. There must be annexed thereto the approval of the superintendent of banks and memoranda of

the ratification and confirmation thereof by the stockholders of each constituent corporation, which must be respectively signed and acknowledged by stockholders representing at least two-thirds of the capital stock of their respective corporations. When completed as aforesaid said articles must be filed in the office of the county clerk of the county in which is located the principal place of business of the new corporation, and a copy of the articles of incorporation and consolidation certified by such county clerk must be filed in the office of the secretary of state, who must issue, over the great seal of the state, a certificate that a copy of the articles of incorporation and consolidation containing the required statement of facts has been filed in his office. The secretary of state must file in his office a duplicate of the certificate hereinbefore provided for and copies thereof, duly certified by the secretary of state, shall have the same force and effect in evidence as the original. A copy of the articles of incorporation and consolidation, certified by said secretary of state, must be filed in the office of the superintendent of banks, and also in the office of the county clerk of any county in which were filed the original articles of incorporation of either of the constituent corporations. When the superintendent of banks issues the certificate of authorization provided for by section one hundred twenty-eight of this act the new or consolidated corporation shall be a body politic and corporate by the name stated in the certificate, and for the term of fifty years, unless it is, in the articles of incorporation and consolidation, otherwise stated and thereupon each constituent corporation named in the articles of incorporation and consolidation must be deemed and held to have become extinct in all courts and places, and said new corporation must be deemed and held in all courts and places to have succeeded to all their several capital stocks, properties, trusts, claims, demands, contracts, agreements, assets, choses and rights in action of every kind and description, both at law and in equity, and to be entitled to possess, enjoy, and enforce the same and every thereof, as fully and completely as either and every of its constituents might have done had no consolidation taken place. Said consolidated or new corporation must also, in all courts and places, be deemed and held to have become subrogated to its several constituents and each thereof, in respect to all their contracts and agreements with other parties, and all their debts, obligations, and liabilities, of every kind and nature, to any persons, corporations, or bodies politic, whomsoever, or whatsoever, and said new corporation must sue and be sued in its own name in any and every case in which any or either of its constituents might have sued or might have been sued at law or in equity had no such consolidation been made. Nothing in this section contained shall be construed to impair the obligation of any contract to whom any of such constituents were parties at the date of such consolidation. All such contracts may be enforced by action or suit, as the case may be, against the consolidated corporation, and satisfaction obtained out of the property which, at the date of the consolidation, belonged to the constituent which was a party to the contract in action or suit, as well as out of any other property belonging to the consolidated corporation, and the stockholders of each constituent corporation so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them at or before

such consolidation to the same extent as if the same had not been made. The right of said new corporation to increase or decrease its capital stock, to change the number of its directors, to amend its articles of incorporation, to change its principal place of business, or its name, or to effect any other organic change shall be governed by the general corporation laws of this state and by the bank act, and the procedure to effect any such change shall be that defined by the general corporation laws and the bank act.

The superintendent of banks shall transmit to the secretary of state a duplicate of the certificate of authorization hereinbefore referred to and the secretary of state shall file the same in his office. The superintendent of banks shall also file a duplicate of such certificate in his own office. [Amendment approved May 17, 1917; Stats. 1917, p. 606.]

§ 35. **Consent to purchase certain contracts.** No bank shall purchase any contract arising from the sale of real estate or any note or bond in which contract, or note, or bond any director, officer, employee, or controlling stockholder of such bank is personally or financially interested, directly or indirectly, for his own account, for himself, or as the partner or agent of others, without the previous consent in writing of the superintendent of banks. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 41. **Consent for officer to purchase assets at discount.** No officer, director, agent, or other employee of any bank shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of such bank's obligations or assets for a less sum than shall appear upon the face of any such obligations or assets to be the value thereof except with the previous consent of all the directors of said bank, such consent to be evidenced by a resolution adopted by said directors. A certified copy of said resolution shall immediately be transmitted to the superintendent of banks. Every person violating any provision of this section, shall for each offense forfeit to the people of the state, twice the face value of any such obligations or assets so purchased. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 43. **Deposit of funds in another bank.** No bank shall deposit any of its funds in any other bank unless such other bank has been nominated as a depositary for its funds by the vote of a majority of the directors, or trustees of the bank making the deposit, and such other bank has been designated by the superintendent of banks as such depositary. The superintendent of banks may in his discretion revoke such a designation. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 45. **Interest unpaid.** Interest unpaid, although due or accrued, on debts owing to any bank, shall not be included in calculation of its profits previous to a dividend; nor shall any bank, except with the previous written consent of the superintendent of banks, enter or at any time carry on its books any of its assets at a valuation exceeding its actual cost to such bank. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 54. **Real estate to be sold within five years. Appraisal of value. Notice of sale. Minimum price. Fees. Costs.** All real estate purchased by any bank at sales under pledges, mortgages or deeds of trust for its benefit for money loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon and all other real estate owned or held by it, which is not necessary for carrying on its business, must be sold or exchanged for other real estate by such bank within five years after title thereto shall have vested in it by purchase or otherwise; provided, however, that no exchange of such real estate for other real estate shall be made unless and until written consent thereto shall first be given by the superintendent of banks; and provided, further, that any real estate so taken in exchange may be held for such period of time as the superintendent of banks may fix but not to exceed five years. Parcels of such real estate not sold or exchanged within said time may be purchased by any person wanting the same upon the conditions and proceedings following: The intending purchaser may file a petition in the superior court in and for the county wherein said real estate or any portion thereof is situated; upon the filing of such petition a citation shall be issued out of said court directed to the bank owning such real estate requiring such bank to show cause on a day certain which shall be not earlier than ten days after the service of such citation, why commissioners should not be appointed by said court for the purpose of appraising the value of the real estate described in the petition and of selling the same at public auction under the provisions of this section. If there shall be any liens or encumbrances of record against such real estate the person or persons holding such liens or encumbrances shall likewise be cited and the court shall in its final decree distribute the proceeds of such sale, if a sale thereof shall be made, according to the equities of the parties. If it shall appear at the hearing of such petition that the real estate therein sought to be purchased is held by such bank in violation of the provisions of this section or of the constitution of this state, the court shall appoint three commissioners to appraise the value thereof and sell the same at public auction at the county seat of the county wherein said real estate or any part thereof is located. Notice of which said sale shall be given to the bank owning said real estate and to any other persons interested therein as shown by the records of such county at least ten days before the date of such sale and shall be published once a week for three successive weeks in some newspaper published in the county where such real estate or any part thereof may be located, or if no newspaper shall be published in such county then in a newspaper published in some neighboring county. Such notice shall state the time and place of such sale and shall describe the real estate to be sold with common certainty and state the value thereof as fixed by the appraisement of such commissioners and state that no bid less than such appraised value will be received therefor. No sale shall be made for an amount less than the appraised value of such real estate fixed by said commissioners, and in the event that no bid is received at such sale at least equal to said appraised value of said real estate no intending purchaser can institute the proceedings provided for in this section within one year thereafter. In case of any sale made under the provisions of this section and of the refusal of any bank owning such

real estate or of any lienholder or encumbrancer to execute the conveyances or releases necessary or proper to vest the title of such bank, lienholder or encumbrancer in the purchaser thereof the court shall have power in such proceedings to direct said commissioner to execute such deeds, conveyances or releases upon the payment to them of the purchase price therefor. The fees of such commissioners and cost of sale shall be fixed by the court, upon making such appointment, but the entire expense thereof shall not exceed one hundred dollars. The cost of any such proceedings shall be borne by the intending purchaser if no sale shall be made, but if a sale shall be made the cost of such proceedings shall be borne by the purchaser of the property and the person who filed the petition and advanced the costs of such proceedings shall be reimbursed in case he shall not become such purchaser. All sales hereunder shall be returned to the court having jurisdiction of the matter in the same manner as in the case of sales, by commissioners, of real estate on foreclosure of mortgages. Nothing in this section contained shall be deemed to affect the power of the superintendent of banks to require the writing down of the value of real estate held by any bank, at any time, when such writing down shall be proper. [Amendment approved May 17, 1917; Stats. 1917, p. 622.]

§ 61. **Purchase of real or personal property by savings banks.** Any savings bank may purchase, hold and convey real or personal property as follows:

1. **Bank premises, etc.** The lot and building in which the business of the bank is carried on; furniture and fixtures, vaults and safe deposit vaults and boxes necessary or proper to carry on its banking business; such lot and building, furniture and fixtures, vaults and safe deposit vaults and boxes shall not, in the aggregate, be carried on the books of such bank as an asset to an amount exceeding its paid-up capital and surplus; and hereafter, the authority of a two-thirds vote of all the directors shall be necessary to authorize the purchase of such lot and building, or the construction of such building.

2. **Mortgaged property.** Such as may have been mortgaged, pledged or conveyed to it in trust for its benefit in good faith, for money loaned in pursuance of the regular business of the corporation.

3. **Property purchased at foreclosure sales. Limitations on purchase of personal property. Purchase of bonds.** Such as may have been purchased at any sales under pledge, mortgage or deed of trust made for its benefit for money so loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon.

No savings bank shall purchase, own, or sell personal property, except such as may be requisite for its immediate accommodation for the convenient transaction of its business, notes or bonds secured by trust deeds or mortgages on real estate, bonds, securities or evidences of indebtedness, public or private, gold or silver bullion and United States mint certificates of ascertained value, and evidences of debt issued by the United States. No savings bank shall purchase, own, hold or convey bonds, securities or evidences of indebtedness, public or private, except as follows:

(a) **United States bonds.** Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or those issued under authority of the United States;

(b) **State of California bonds.** Bonds of this state, or those for which the faith and credit of the state of California are pledged for the payment of principal and interest, or those of any county, city and county, city or school district of this state;

(c) **State bonds.** Bonds of any state in the United States that has not, within five years previous to making such investment by such bank, defaulted in the payment of any part of either principal or interest, or those of any county, city and county, city or town, in any state of the United States other than the state of California, issued under authority of any law of such state, which county, city and county, city or town, had, as shown by the federal or state census next preceding such investment, a population of more than twenty thousand inhabitants; provided, however, that the entire bonded indebtedness of such county, city and county, city or town, including such issue of bonds does not exceed fifteen per centum of the value of the taxable property therein as shown by its last equalized assessment-roll; and provided, further, that such county, city and county, city or town, or the state in which it is located has not defaulted in payment of either principal or interest due upon any legally authorized bond issue within five years next preceding such investment;

(d) **District bonds.** Bonds of any district organized under the laws of the state of California which are required to be and are investigated and approved by a commission now or hereafter authorized by a law of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks;

(e) **District bonds. Bonds of mutual water company.** Bonds of any district organized under the laws of the state of California not otherwise provided for in this section; or those of any mutual water company organized under the laws of this state and operating wholly within this state; provided, that all bonds specified in this paragraph shall first be certified by the superintendent of banks after an investigation in manner and form as is provided for by section sixty-one *a* of this act; and provided, further, that no bonds of any mutual water company shall be certified by the superintendent of banks unless the company issuing said bonds shall have been in continuous operation for a period of five years next preceding the application for said certificate and shall have served not less than seventy-five per centum of the lands entitled to service by said mutual water company for a period of not less than three years next preceding the application for said certificate;

(f) **Bonds of railroad corporation.** (1) Bonds of any railroad corporation incorporated under the laws of the state of California and operating exclusively therein; provided, said corporation has had net earnings for the period herein fixed amounting to at least one and one-fourth times the interest on all its outstanding mortgage indebtedness; or

(2) **Bonds of railroad corporations.** Bonds of any railroad corporation incorporated under the laws of any state in the United States, operating at least five hundred miles of standard gauge track exclusive of sidings; provided, said corporation has had net earnings for the period herein fixed amounting to at least one and one-half times the interest on all its outstanding mortgage indebtedness; or

(3) **Bonds of railroad corporations. Security. First mortgage. Refunding mortgage. Trust deed on operative property.** Bonds of any railroad corporation, the payment of which has been guaranteed, both as to principal and interest, by a railroad corporation meeting the requirements of either subdivision (1) or (2) of paragraph (f) of this section; provided, that such guaranteeing corporation has had for the period herein fixed net earnings amounting to at least one and one-half times the interest on all its outstanding mortgage indebtedness and, in addition thereto, sufficient, taken with the earnings of all corporations whose bonds it has guaranteed, to qualify as investments for savings banks, as in this section provided, all such guaranteed bonds; provided, that the excess of income of any corporation whose bonds have been so guaranteed, over the amount required by this section for which corporation, shall not apply to or be included in determining the income so required.

In determining the income of any corporation specified in paragraph (f) of subdivision (3) of this section, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation or corporations, the entire business and income producing property of which the corporation issuing such bonds has wholly acquired.

All bonds authorized for investment by paragraph (f) of subdivision (3) of this section must be secured by a mortgage or deed of trust which is, at the time of making such investment, either

I. A closed first mortgage or deed of trust; or

II. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or

III. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation, and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or

IV. An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, main-

tenance charges, operating expenses, taxes, and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust, or, if such income, maintenance charges or operating expenses cannot be definitely ascertained, on the proper proportionate share of such property in the general income, maintenance charges, operating expenses, and taxes of the corporation then owning such property and on the mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust; provided, however, that if the payment of the bonds secured by such underlying or divisional closed mortgage or deed of trust shall be guaranteed or assumed by the corporation then owning the property securing the same, such bonds shall be legal investments for savings banks, if the net income of such corporation from all sources shall equal the amount herein required, notwithstanding any insufficiency of the income derived from the property covered by such underlying or divisional closed mortgage or deed of trust to meet the requirements of this section.

No savings bank shall purchase the bonds of any railroad corporation deriving less than twenty per centum of its gross receipts from passenger revenues.

The term "railroad corporation" when used in paragraph (f) of subdivision (3) of this section shall have the meaning defined in the "public utilities act."

(g) **Public utility bonds. Security. First mortgage. Refunding mortgage. Trust deed on operative property. Definitions.** Bonds of any street railroad corporation; or of any gas; water; pipe-line; light; power; light and power; gas, light and power; electrical; telephone; telegraph; or telephone and telegraph corporation or of any other "public utility" incorporated under the laws of the state of California; and

(1) Operating exclusively in the state of California, provided said corporation has had, for the period herein fixed, net earnings amounting to one and one-half times the interest on all its outstanding mortgage indebtedness; or

(2) Operating its property in part within the state of California, provided said corporation has had, for each of its two fiscal years next preceding such investment, net earnings amounting to one and one-half times the interest on all its outstanding mortgage indebtedness; or

(3) The payment of which is guaranteed, both as to principal and interest, by a public utility corporation meeting the requirements of either subdivision (1) or (2) of paragraph (g) of this section, provided that such guaranteeing corporation has had for the period required in the respective subdivisions of this paragraph relating thereto, net earnings amounting to at least one and one-half times the interest on all of said guaranteeing corporation's outstanding mortgage indebtedness, and, in addition thereto, sufficient, taken with the earnings of all corporations whose bonds it has guaranteed, to qualify as investments for savings banks, as in this section provided, all such guaranteed bonds; provided, that the excess of income of any corporation whose bonds have been so guaranteed, over the amount required by this section for such corporation, shall not apply to or be included in determining the income so required.

In determining the income of any corporation specified in paragraph (g) of subdivision (3) of this section, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation the entire business and income producing property of which the corporation issuing such bonds has wholly acquired.

All bonds authorized for investment by paragraph (g) of subdivision (3) of this section must be secured by a mortgage or deed of trust which is at the time of making such investment; either

I. A closed first mortgage or deed of trust; or

II. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or

III. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements of such corporation after including the additional bonds then proposed to be issued; or

IV. An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, maintenance charges, operating expenses, taxes and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust or, if such income, maintenance charges or operating expenses cannot be definitely ascertained, on the proper proportionate share of such property in the general income, maintenance charges, operating expenses and taxes of the corporation then owning such property and on the mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust; provided, however, that if the payment of the bonds secured by such underlying or divisional closed mortgage or deed of trust shall be guaranteed or assumed by the corporation then owning the property securing the same, such bonds shall be legal investments for savings banks, if the net income of such corporation from all sources shall equal the amount herein required, notwithstanding any insufficiency of the income derived from the property covered by such underlying or divisional closed mortgage or deed of trust to meet the requirements of this section.

The terms, "street railroad corporation," "pipe-line corporation," "gas corporation," "electric corporation," "telephone corporation," "telegraph corporation," "water corporation," and "public utility," when used in paragraph (g) of subdivision (3) of this section, shall each have the meaning defined in the "public utilities act."

(h) **Notes secured by first mortgage. Market value of oil and timber land.** Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; provided, that the entire note or bond issue shall not exceed sixty per centum of the market value of such real estate, or such real estate with improvements, taken as security; and provided, further, in case the said note or bond issue is created for a building loan on real estate, that at no time shall the entire outstanding note or bond issue exceed sixty per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security.

In determining the market value of any real estate under the provisions of paragraph (h) subdivision (3) of this section where such real estate, improved or unimproved, consists of oil or other mineral or timber land, the value represented by such oil or other mineral or timber shall not be included in fixing such market value. Nothing herein contained shall prevent savings banks from making loans secured by mortgage or deed of trust upon lands wherein redwood timber is included in fixing the market value thereof.

(i) **Collateral trust bonds.** Collateral trust bonds or notes when secured by either:

(1) Deposit of bonds authorized for investment by this section of a market value at least fifteen per centum in excess of the par value of the collateral trust bonds or notes issued; or

(2) Deposit of bonds authorized for investment by this section and other securities of a combined market value at least twenty per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of said collateral trust bonds or notes shall in no case exceed the market value of that portion of the security represented by bonds authorized for investment by this section.

(3) Deposit of any notes or bonds authorized for investment by this section and other securities of a combined market value of at least thirty per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of such collateral trust bonds or notes issued shall in no case exceed the market value of that portion of the security represented by notes or bonds authorized for investment by this section; provided, further, that the collateral pledged consist of bonds authorized for investment by this section of the market value of at least seventy-five per centum of the par value of such collateral trust bonds or notes issued.

(j) **Legal investment in New York and Massachusetts.** Bonds legal for investment by savings banks in the states of New York or Massachusetts; provided, however, that as to bonds of the character specified in paragraph (c) of subdivision (3) of this section, such bonds shall also conform to the requirements of such paragraph.

(k) **Guaranteed payment. "Net earnings." Bonds, etc., certified by superintendent of banks. Legality of previous investments not affected. Investment value of bonds. Bonds of public utilities. State does not guarantee validity of bonds. Advertisement of bonds as legal investments.** Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage

participation certificates, issued by a mortgage insurance company in accordance with the provisions of chapter VIII of title II of part IV of division first of the Civil Code.

"Net earnings" as used in this section shall be deemed to mean the amount remaining after deducting from the gross earnings all taxes, maintenance charges and operating expenses except depreciation charges, sinking fund charges and interest on indebtedness.

Unless herein otherwise expressly provided the period for which any corporation must have "net earnings" sufficient to qualify its bonds as an investment for savings banks under this section shall be either the fiscal year of such corporation next preceding the investment therein by any savings bank or twelve consecutive months in the fourteen months next preceding such investment.

No notes, bonds, or other securities shall be deemed to come within or conform to the requirements of either of paragraphs (f), (g), (h), or (i) of subdivision (3) of this section, unless such notes, bonds or other securities shall, in the manner provided in this act, have been certified by the superintendent of banks to come within and fully conform to the requirements of one or the other of said paragraphs; provided, however, that any bank may, without such certification by the superintendent of banks, purchase any note or bond or issue of notes or bonds provided for in said paragraph (h), whenever such purchase constitutes the entire amount of notes or bonds executed by the makers thereof and secured by the same real estate; and provided, further, that notes, bonds or other securities, the payment of which is secured by any mortgage or deed of trust executed on or before September 1, 1913, and now owned by any savings bank in this state, if otherwise in full conformity with the requirements of this section, need not be so certified by the superintendent of banks, in order to be legal as investments for savings banks.

The legality of investments heretofore lawfully made pursuant to the provisions of this section, or of any law of this state as it existed on and subsequent to July 1, 1909, shall not be affected by any amendments to this section or this act; nor shall any such amendments require the changing of investments once lawfully made under this act.

Any bonds authorized by this section as a legal investment for savings banks may be carried on the books of said bank at their investment value, based on their market value at the time they were originally bought, unless the superintendent of banks shall require any or all of the bonds which may thereafter have a market value less than the original investment value to be written down to such new market value which shall be done gradually if practicable and in such manner as he may determine; or he may, by a plan of amortization to be determined by him, require such gradual extinction of premium as will bring such bonds to par at maturity.

No savings bank shall hereafter purchase or loan money upon any bond, note or other evidence of indebtedness, issued by any "public utility," subject to the jurisdiction, regulation or control of the railroad commission of this state under the provisions of the "public utilities act," approved December 23, 1911, and acts amendatory thereof or supplemental thereto, unless each such bond, note or other evidence of indebtedness was either:

(a) Issued prior to the taking effect of the "public utilities act"; or

(b) Issued under authority of the railroad commission, in accordance with the provisions of said act; or

(c) A note issued for a period not exceeding twelve months, in accordance with the provisions of subdivision (b) of section fifty-two of said act.

No provision of this act, and no act or deed, done or performed under or in connection therewith, and no finding made or certificate issued under any provision thereof, shall be held or construed to obligate the state of California to pay, or be liable for the payment of, or to guarantee in any manner whatsoever, the regularity or the validity of the issuance of any stock or bond certificate, or bond, note, or other evidence of indebtedness certified under any provision of this act, by the superintendent of banks.

It shall not be lawful for any individual, firm, association, bank, trust company, stock company, copartnership or corporation to advertise by newspaper or circular or in any other manner that any securities are legal investments for savings banks in this state or to use any advertisement which might lead the public to believe that any securities conform to the requirements of law relating to investments by savings banks unless such securities are such as are specified in paragraphs (a), (b), (c), (d), (e), (j), or (k) of subdivision (3) of this section or shall, in the manner provided in this act, have been certified by the superintendent of banks to come within and fully conform to the requirements of one or the other of paragraphs (f), (g), (h), or (i) of subdivision (3) of this section or unless such advertisement shall have been approved in writing by the superintendent of banks prior to publishing, circulating or otherwise issuing the same. Any individual, firm, association, bank, trust company, stock company, copartnership or corporation who shall advertise any securities in violation of the provisions of this paragraph shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment. [Amendment approved May 17, 1917; Stats. 1917, p. 586.]

§ 61a. Superintendent of banks may investigate bonds. Opinions of attorneys. Certificates revoked. Expenses. The superintendent of banks shall have power, when any issue of bonds or securities is presented to him for that purpose, to investigate and ascertain whether such bonds or securities come within and fully conform to all the requirements of paragraph (f), (g), (h), or (i) of subdivision (3) of section sixty-one of this act, or of either of said paragraphs. He may also investigate and ascertain for what period of time, and upon what conditions, any franchise granted to or held by any corporation issuing any such bonds or securities will remain in force, and any other facts or conditions bearing upon the value or sufficiency of such bonds. The superintendent of banks may accept and act upon the opinions and appraisements of any attorneys, engineers, or appraisers which may be presented by such person or corporation so applying, and the reports of any of the executive officers of the corporation issuing such bonds

or securities, on any question of fact concerning or affecting such bonds or securities, the security thereof, the franchise conditions herein mentioned, or the financial condition of the corporation issuing the same. In lieu of or in addition to such opinions, appraisements and reports, the superintendent of banks may, if he deems proper, have any or all such matters passed upon and certified to him by attorneys, engineers, appraisers or accountants of his own selection at the expense of the applicant. If the superintendent of banks shall find from such investigation that the bonds or securities so presented come within and fully conform to all the requirements of any of said paragraphs of subdivision (3) of section sixty-one of this act, and is satisfied from such investigation as to such franchise conditions, he shall so certify unless for any reason he shall be of the opinion that such bonds are not a safe or proper investment for savings banks, and in such event or if such bonds shall fail to meet the requirements of this act such certificate must be refused. The superintendent of banks also shall have power to investigate and ascertain the status and sufficiency as investments for savings banks of any bonds specified in paragraph (e) of subdivision (3) of section sixty-one of this act. If upon such investigation it shall be determined in the opinion of the superintendent of banks that any bonds specified in said paragraph (e) of subdivision (3) of section sixty-one of this act constitute a proper investment for savings banks he shall so certify.

Any certificate issued by the superintendent of banks under authority of the provisions of this section may be revoked at any time in his discretion. Any certificate issued in relation to notes or bonds specified in paragraphs (f), (g), or (i) of subdivision (3) of section sixty-one of this act shall expire not later than three months after the end of the then current fiscal year of the corporation issuing such notes or bonds.

The actual expense of investigating any issue of bonds or securities so presented shall be paid by the person, district or corporation presenting the same for investigation, and the superintendent of banks, before making such investigation, may require a cash deposit of such amount as he may deem necessary to cover such expense. The superintendent of banks shall keep an official list of all bonds and securities certified by him. [Amendment approved May 17, 1917; Stats. 1917, p. 594.]

§ 65. No loan to director of officer. Record of loan. Reporter to superintendent of banks. Loan to agent or employee. Record of loan. Report to superintendent of banks. Not applicable to what corporations. No loan shall be made, for himself or as agent or partner of another, directly or indirectly, to any director or officer of any savings bank by such bank, or on the indorsement, surety or guaranty of any such officer or director, except that loans may be made to any corporation in which any director or officer of such savings bank may own or hold a minority number of shares of stock, upon authorization of a majority of all the directors of such savings bank and the affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all other respects conform to and

comply with all other provisions of this act. Such interested director or officer shall not vote or participate in any manner in the action of the board on such loan. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the corporate name of the borrower, the name of each director or officer of such bank who is a member, stockholder, officer, or director of the corporation to which such loan is made, the amount of stock held by him in such borrowing corporation, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. No loan may be made to any corporation, a majority of the stock of which is owned or controlled by any one or more of the directors of officers of such savings bank, except with the previous consent of the superintendent of banks.

A loan may be made to any agent or employee, other than an officer or director, of any savings bank by such bank upon authorization of a majority of all the directors of such savings bank and an affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all respects conform to and comply with all other provisions of this act. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the name of the borrower, the nature of his employment, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of the security given therefor, and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. Any officer or director of any savings bank, who knowingly procures a loan from such savings bank, contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank, to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank, to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the state of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such savings bank may be members or officers, but in which they have no financial interest. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 67. 1. **Limitation on loans.** No savings bank shall loan money except on adequate security of real or personal property, and no such loan shall be made for a period longer than ten years. No such loan shall be made on unsecured notes; provided, that a savings bank may discount or purchase bankers' acceptances of which the acceptor is a

bank or trust company having a paid in capital of one million dollars. Said bankers' acceptances shall be bills of exchange of the kind and character defined and made eligible under the federal reserve act and the then current regulation of the federal reserve board for rediscount or for purchase in the open market by a federal reserve bank; provided, however, that no savings bank shall at any time acquire by discount or purchase an amount of such bankers' acceptances greater than five per centum of its deposits nor shall any savings bank acquire, directly or indirectly, by discount or purchase, any such bankers' acceptances from any one acceptor in an amount which shall exceed five per centum of the capital and surplus of such bank; and provided, that a savings bank may discount or purchase a bill which must comply with the following requirements:

(a) **Requirements for bill of exchange.** It must be a bill issued by a solvent individual or firm or corporation engaged in mercantile or manufacturing business in the United States that makes statements of its condition duly ascertained and certified to by a certified public accountant. Copy of such certified statement shall be on file in the office of the savings bank discounting or purchasing such bill in a file maintained for such purpose. Said statement shall have been issued within the preceding twelve months and shall consist of a balance sheet showing quick assets, slow assets, permanent or fixed assets, current liabilities and accounts, short term loans, long term loans, capital and surplus. Accompanying said balance sheet shall be a copy of a statement from the borrower concerning the following:

(1) The nature of the business.

(2) All contingent liabilities such as indorsements or guaranties.

(3) Particulars respecting any mortgage debts and whether there is any lien on current assets.

(4) The maximum and minimum liabilities of the individual, firm or corporation during the twelve months previous to the date of audit.

(b) **Requirements for bill of exchange. Bills not eligible for discount or purchase. Credit reports. Limitation on amount.** It must be issued by an individual, firm or corporation whose net worth is not less than two and one-half times the amount of its outstanding liabilities, nor less than two hundred thousand dollars. The quick assets of said individual, firm or corporation, consisting of merchandise, finished, raw, and in the process of manufacture, accounts receivable, bills receivable and cash, shall not be less than two times its outstanding quick liabilities as shown by said statement.

(c) It must have a maturity of not more than six months.

(d) It must have arisen out of actual commercial transactions; that is, be a bill which has been issued or drawn for industrial or commercial purposes or the proceeds of which have been or are to be used for such purpose.

No bill shall be eligible for discount or purchase by a savings bank, the proceeds of which have been used or are to be used for any of the following purposes:

(1) For permanent or fixed investments of any kind such as lands, buildings, machinery, including therein additions, alterations or other

permanent improvements except such as are properly to be regarded as costs of operation.

(2) For investments of a merely speculative character whether made in goods or otherwise.

(3) Must not have been issued for carrying or trading in stocks, bonds or other investment securities.

(4) Must not be a bill of any individual, firm or corporation which has under pledge or hypothecation any of its personal assets, or which has any contingent liability arising from the rediscount of bills receivable, or from accommodation indorsements of such individual, firm or corporation.

The word "bill" when used in this section shall be construed to include notes, drafts or bills of exchange and the word "goods" shall be construed to include goods, wares or merchandise.

Any savings bank purchasing or discounting such paper shall have in a file maintained for the purpose, letters from banks and merchants or mercantile reports bearing upon the credit and standing of the person, firm, copartnership or corporation whose paper is under discount.

No savings bank shall at any time acquire by discount or purchase an amount of such commercial paper greater than five per centum of its deposits nor shall any savings bank acquire, directly or indirectly, by discount or purchase, any such commercial paper of any one person, firm, copartnership or corporation in an amount which shall exceed five per centum of the capital and surplus of such bank.

2. **Loans on bonds.** No savings bank shall invest or loan an amount greater than fifty per centum of its actual paid-up capital and surplus on any one bond issue of the class specified in paragraph (h) of subdivision (3) of section sixty-one of this act, nor more than five per centum of its assets on any one bond issue of any other class, except bonds of the United States, of the state of California, bonds for which the faith and credit of the United States or of the state of California are pledged, or bonds of any county, city and county, city or school district in this state, or bonds of any irrigation district such as are legal for investment by savings banks.

3. No savings bank shall loan money:

(a) On bonds of the character specified in paragraph (a), (b), (c), and (d) of subdivision (3) of section sixty-one of this act, or on bonds of the character specified in paragraph (e) of subdivision (3) of section sixty-one of this act the principal and interest of which are to be paid in whole or in part by taxes levied upon the property in the district issuing such bonds, unless such bonds shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

(b) On bonds of the character specified in paragraphs (f) and (g) or on bonds or notes of the character specified in paragraph (i) of subdivision (3) of section sixty-one of this act, or on bonds of the character specified in paragraph (e) of subdivision (3) of section sixty-one of this act other than those specified in the preceding paragraph of this section, unless such bonds or notes shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or

(c) On bonds legal for investment by savings banks in the states of New York or Massachusetts, unless such bonds shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

(d) On personal property unless such personal property shall have a market value at least fifty per centum in excess of the amount loaned thereon; or,

(e) On other bonds, or on the capital stock of any corporation, unless such bonds or stock shall have a market value at least fifty per centum in excess of the amount loaned thereon; provided, however, that no loan shall be made upon the capital stock of any bank unless such bank has been in existence at least two years and has earned and paid a dividend on its capital stock.

4. **Loans on real estate.** No savings bank shall make any loan on the security of real estate, except it be a first lien, and in no event to exceed sixty per centum of the market value of any real estate taken as security except for the purpose of facilitating the sale of property owned by such savings bank; provided, that a second lien may be accepted to secure the repayment of a debt previously contracted in good faith; and provided, also, that any savings bank holding a first mortgage or deed of trust on real estate may take or purchase and hold or loan upon another and immediately subsequent mortgage or deed of trust thereon, but all such loans shall not exceed in the aggregate sixty per centum of the market value of the real estate securing the same; provided, further, that a savings bank may loan not to exceed ninety per centum of the face value of a note or bond secured by a first mortgage or deed of trust on real estate, but in no event shall any such loan exceed ninety per centum of sixty per centum of the market value of the real estate covered by said mortgage or deed of trust.

5. **Loans on capital stock of corporations. No loans on mining stock.** No savings bank shall loan to any one borrower on the security of the capital stock of any corporation an amount exceeding ten per centum of the capital stock and surplus of such savings bank; provided, that all loans on the capital stock of any one corporation shall not exceed in the aggregate twenty-five per centum of the capital stock and surplus of such savings bank. No savings bank shall purchase, invest or loan its capital, surplus or the money of its depositors, or any part of either, in mining shares or stock.

Any president or managing officer who knowingly consents to a violation of any provision of this section shall be guilty of a felony. [Amendment approved May 17, 1917; Stats. 1917, p. 594.]

§ 68. **Total reserves of savings bank. Deposits with commercial banks.** Every savings bank or savings department of a bank, shall at all times maintain total reserves equivalent to five per centum of the aggregate amount of its deposits exclusive of state, county and municipal deposits for the repayment of which bonds have been deposited as security; at least two and one-half per centum of such deposits shall be maintained as reserves on hand, one-half of which shall consist of gold coin, gold bullion, United States gold certificates or United States notes and one-

half of which shall consist of gold coin, gold bullion, United States gold certificates, United States notes or any other form of currency authorized by the laws of the United States and two and one-half per centum of such deposits may be maintained as reserves on hand and may consist of bonds of the United States or of gold coin, gold bullion, United States gold certificates, United States notes or any other form of currency authorized by the laws of the United States or may be maintained as reserves on deposit subject to call with any reserve depositary provided for in section twenty of this act; provided, however, that no savings bank or savings department shall be required to maintain reserves on hand in excess of four hundred thousand dollars, and when such reserves on hand reach that amount, the balance of total reserves necessary to make up the five per centum may be kept as reserves on deposit subject to call with any reserve depositary provided for in section twenty of this act. No new loan shall be made during any deficiency in the total reserves. Deposits with any commercial bank, or commercial department of a bank, on open account, as provided in this section, shall be permitted, and shall not be construed as loans. Not more than five per centum of the deposits of any savings bank shall be deposited with any one bank, except with the consent of the superintendent of banks. Not more than fifteen per centum of the deposits of any savings bank shall be deposited with all commercial banks, except with the consent of the superintendent of banks. No savings bank or savings department shall receive deposits of other banks other than savings deposits and such deposits shall not be treated or considered as a part of the reserves on deposit of such depositing bank; provided, the sum so deposited shall not exceed thirty per centum of the paid-in capital and surplus of the depositing bank nor more than fifteen per centum of the paid-in capital and surplus of the depositary bank. [Amendment approved May 17, 1917; Stats. 1917, p. 611.]

§ 80. **Loans of commercial banks without security. With security. Restrictions not applicable to bills of exchange, etc. Computing liabilities to commercial bank.** No commercial bank shall make any loans, directly or indirectly, to any person, firm, copartnership or corporation, in an amount which, including therein any extension of credit to such person, firm, copartnership or corporation, by means of letters of credit, or by acceptance of drafts for, or the discount or purchase of the notes, bills of exchange or other obligations of, such person, firm, copartnership or corporation, shall exceed the following percentage of its capital and surplus.

1. Ten per centum without security, except where such capital stock and surplus is not more than twenty-five thousand dollars, in which event an amount not to exceed twenty per centum of such capital stock and surplus may be loaned without security, and where such capital stock and surplus is greater than twenty-five thousand dollars and does not exceed fifty thousand dollars, a sum not exceeding five thousand dollars may be loaned without security. Nothing herein shall prohibit any commercial bank from taking or receiving any kind, character or amount of security whatsoever, either real or personal, for the protection of any loan made under the provisions of this subdivision, but no such

loan or any part thereof shall be considered or construed as a secured loan unless the whole thereof is loaned upon security worth at least fifteen per centum more than the amount of such loan; or,

2. Fifteen per centum, in addition to the amount that may be loaned under the provisions of subdivision one of this section, upon security worth at least fifteen per centum more than the amount of such loan so secured; provided, the total amount which can be loaned under subdivisions one and two hereof cannot exceed twenty-five per centum in all; provided, however, that a separate note or notes shall be taken for the unsecured loans and a separate note or notes shall be taken for the secured loans, and the secured and unsecured loans shall not be combined in any way within one note, or notes; or,

3. Twenty-five per centum upon security worth at least fifteen per centum more than the amount of its loans so secured; provided, however, that when secured loans to this amount or any amount in excess of fifteen per centum are made, then no unsecured loans shall be permitted in addition to such secured loans; or

4. Forty per centum, provided such loans are upon commercial or business paper actually owned by the person negotiating the same to such bank, and are indorsed by such person without limitation; provided, however, that in addition to the amounts permitted to be loaned by subdivisions one, two or three of this section, an amount may be loaned on the securities fixed by subdivision four of this section, which taken with the amounts so permitted by said subdivisions one, two or three will not exceed forty per centum; provided, also, that the restrictions under this section shall not apply to bills of exchange or drafts, with bills of lading attached, drawn in good faith against actual existing values; provided, further, that any commercial bank, having first obtained in writing the consent of the superintendent of banks so to do and under such conditions and regulations as may be prescribed by him, may accept drafts or bills of exchange drawn upon it running for a period not longer than six months, but no commercial bank shall accept such drafts or bills of exchange in an amount greater at any time in the outstanding aggregate than one-half of its capital and surplus; but such acceptance or acceptances must be drawn by a person, firm, copartnership or corporation engaged in agricultural, industrial or commercial business directly connected with the production, manufacture, purchase, sale or consignment of the goods involved in the transaction in which the acceptance originated; provided, however, that no such acceptance or acceptances to any one person, firm, copartnership or corporation shall exceed ten per centum of the capital and surplus of such bank.

Loans which are made upon security available for loans in a savings bank may be made in a commercial bank upon the same margin of security as is permitted to savings banks anything in this section to the contrary notwithstanding, and all such loans shall be deemed to be secured loans within the meaning of this section.

In computing the total liabilities of any person to a commercial bank there shall be included all liabilities to the bank of any copartnership or unincorporated association of which he is a member, and any loans made for his benefit or for the benefit of such copartnership or unincor-

porated association; of any firm, copartnership or unincorporated association to a commercial bank there shall be included all liabilities of its individual members and all loans made for the benefit of such copartnership or unincorporated association or any member thereof; and of any corporation to a commercial bank there shall be included all loans made for the benefit of the corporation. [Amendment approved May 17, 1917; Stats. 1917, p. 611.]

§ 83. Loans to officer, etc., of commercial bank. Credit to directors, etc. Report to superintendent of banks. Penalty. Not applicable to what corporations. No loan shall be made for himself or as agent or partner of another, directly or indirectly, to any officer of any commercial bank by such bank or on the indorsement, surety, or guaranty of any such officer; provided, that a loan may be made to a corporation of which any officer of a commercial bank, proposing to make such loan, is a minority stockholder, director, officer, agent or employee. Loans to any director, agent or employee, other than an officer, or to any firm, copartnership or corporation of which any director, agent or employee other than an officer is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership or corporation on the indorsement, surety, or guaranty of any such director other than an officer, agent or other employee, can be made by any commercial bank; and provided, further, that a loan may be made or a line of credit may be given to any member of an advisory board or body of a commercial bank, not otherwise an officer of such bank, or a loan may be made to any firm, copartnership or corporation of which any member of such advisory board or body is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership, or corporation on the indorsement, surety, or guaranty of any such member of such advisory board or body upon such conditions as are herein fixed for a loan, directly or indirectly, or a line of credit and the report thereof, to any director of such bank. Loans herein authorized can be made only on authorization of or confirmation within thirty days after making such loan, by a majority of all the directors of such bank and the affirmative vote of all directors of such bank present at the meeting authorizing or confirming such loan. Such interested director shall not vote or participate in any manner in the action of the board on such loan. The board of directors of any such bank may fix the total amount of credit that may at any one time during the twelve months next succeeding be given to any director, agent, or other employee, other than an officer, or to any firm, copartnership, or corporation in which any director, agent, or other employee other than an officer is a member, stockholder, director, officer, agent or other employee or to any corporation of which any officer of a commercial bank, proposing to fix such total amount of credit, is a minority stockholder, director, officer, agent or employee, and any or all loans made within or up to the total amount of such authorized credit may at any time during said twelve months, be renewed from time to time, in whole or in part, by the officers of the bank without any further vote or action on the part of the board of directors. Each such authorization shall be entered upon the records or minutes of said bank. No director shall

vote or participate in any manner in such action of the board fixing the total amount of credit that may at any one time be given to himself or to any firm, copartnership or corporation in which he is a member, stockholder, director, officer, agent or other employee. The fact of making such loan, the names of the directors authorizing such loan, the name of the director, agent or employee, obtaining such loan, or the name of the firm, copartnership or corporation in which such director, agent or employee is interested or the name of the corporation, of which any officer of a commercial bank is a minority stockholder, director, officer, agent or employee, obtaining such loan, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor, if any, and the fact of final payment when made shall forthwith be reported in writing by the cashier or secretary of such bank to the superintendent of banks. In case a loan is made to a corporation there shall be reported in the same manner the name of each director and officer of such bank who is a member, stockholder, director, officer or employee of such borrowing corporation and the amount of stock held by him in such borrowing corporation. All the provisions of this section relating to reports shall apply to the granting of credit and all loans made under any credit given and payments made thereon shall also be reported immediately after the same are made. In case of a loan made without the previous authorization of the directors, the fact of making such loan shall forthwith be reported and the action of the board of directors, in confirming or refusing to confirm such loan within thirty days thereafter, and the fact of final payment when made shall be reported in the same manner as herein required for loans made under previous authorization. Any officer, director, agent, or employee of a commercial bank, who knowingly procures a loan from such commercial bank contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank, to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the state of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such commercial bank may be members or officers but in which they have no financial interest. [Amendment approved May 17, 1917; Stats. 1917, p. 613.]

§ 90. Trust companies. May receive deposits. Segretion of capital and surplus in cities of less than 100,000. In cities of more than 100,000. Separate kinds of capitol. Oath may be taken by officer. Authority of foreign corporation as trustee. Any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appoint-

ment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population does not exceed one hundred thousand persons and which has a capital of not less than one hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, and any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population exceeds one hundred thousand persons and which has a capital of at least two hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, may act, or may be appointed by any court to act in such capacity in like manner as an individual and when so qualified shall be known as a trust company. Any such trust company may, as provided in this act, accept or receive any deposit of money or personal property authorized, directed or permitted to be made with any such corporation by an court or law of this state, and may accept and execute any trust provided for in this act, or permitted by any law of this state, to be taken, accepted or executed by an individual. Any such trust company, if located in a city the population of which does not exceed one hundred thousand persons must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it and whenever such trust company shall, under the provision of sections ninety-six and ninety-eight of this act, be required to make the first additional deposit of securities with the state treasurer, such trust company must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all court trusts accepted by it, and any such

trust company, if located in a city, the population of which exceeds one hundred thousand persons must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least one hundred thousand dollars of such paid up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all courts trusts accepted by it; provided, that no such trust company shall at any time be required to apportion and set aside any portion of its surplus as security for the faithful performance and execution of such private trusts, nor shall it be prohibited from so doing; and provided, further, that the respective amounts of capital or capital and surplus so apportioned and set aside shall be treated in all respects as the separate capital or capital and surplus of each respective kind or class of business, as though the same were conducted by separate and distinct corporations, and each shall be kept, held, used and disposed of wholly for the exclusive benefit, protection and security of the respective classes of trust business to which the same were respectively so apportioned and set aside. In all cases in which it is required that an executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath be taken and subscribed or such affidavit made by the president, vice-president, secretary, manager, trust officer, assistant trust officer or regularly employed attorney thereof, and such officer or employee shall be liable for the failure of such trust company to perform any of the duties required by law to be performed by an individual acting in like capacity and subject to like penalties; provided, any such appointment as guardian shall apply to the estate only, and not to the person. A foreign corporation may be authorized to act in this state as trustee for the following purposes:

(1) To deliver bonds, and receive payment therefor.

(2) To deliver permanent bonds in exchange for temporary bonds of the same issue.

(3) To deliver refunding bonds in exchange for those of a prior issue or issues.

(4) To register bonds, or to exchange registered bonds for coupon bonds, or coupon bonds for registered bonds.

(5) To pay interest on such bonds, and to take up and cancel coupons representing such interest payments.

(6) To redeem and cancel bonds when called for redemption, or to pay and cancel bonds when due.

(7) The certification of registered bonds for the purpose of exchanging registered bonds for coupon bonds.

(8) To act as trustee under any mortgage, deed or trust, or other instrument securing notes or bonds issued by any corporation. [Amendment, approved May 17, 1917; Stats. 1917, p. 615.]

§ 98. When trust funds amount to $500,000. When funds amount to $1,000,000. Treasurer's receipt, "Trust funds." Penalty. With-

drawal of securities. Validity of act. Whenever any trust company, the principal place of business of which is located in a city the population of which does not exceed one hundred thousand persons, receives from court trusts accepted by it, trust funds, as herein defined, to the amount of five hundred thousand dollars, it shall forthwith notify in writing the superintendent of banks of such fact, and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and whenever any trust company receives from court trusts such funds to the amount of one million dollars it shall further notify in writing the superintendent of banks of such fact and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and for each additional five hundred thousand dollars of such trust funds thereafter received by any trust company from court trusts a similar notification in writing shall forthwith be given to the superintendent of banks, and a further deposit in the amount of twenty-five thousand dollars of such money or securities, or of securities, provided for in section ninety-seven of this act likewise approved, shall be made, within thirty days thereafter, by such trust company with said state treasurer, until five hundred thousand dollars of such securities have been so deposited. The treasurer shall give his receipt for any money or securities so deposited and each and all of such deposits of money or securities, shall be held by said state treasurer for the sole benefit of the beneficiaries of the class of business for the security and protection of which same were deposited. The state shall be responsible for the custody and safe return of any money or securities so deposited with said state treasurer. The term "trust funds" when used in this section shall be deemed to mean and shall mean personal property and cash, whether received with the original trust property or as rent, income or proceeds thereof, in connection with the trust, and shall not be deemed to include and shall not include real property. Any trust company failing to comply with the provisions of this section shall forfeit to the state of California one hundred dollars a day for each day during which such failure or default shall continue. Upon making a request in writing to the superintendent of banks, any such trust company shall be entitled to withdraw from the state treasurer, from time to time, a sufficient amount of such securities so that at all times the amount of such securities so deposited shall conform to the requirements of this act, and so that at no time shall such trust company be required to have on deposit with the state treasurer an amount of securities in excess of the requirements of this act. Upon receiving such request in writing, and satisfactory proof of the facts warranting such withdrawal, it shall be the duty of the superintendent of banks to forthwith deliver to the state treasurer a written order directing the withdrawal of said securities so as to conform with the provisions of this section and it shall be the duty of the state treasurer to comply with such written order. The validity or legality of any act or proceeding done or taken by any such trust company, relating to or in

connection with the administration of any such trusts shall not be affected or impaired by the neglect or failure of such trust company, or of any officer or employee thereof, to comply with any of the provisions of this act, but all such acts and proceedings done or taken prior to the revocation of its certificate of authority to do such business by the superintendent of banks, under the provisions of this act, or the revocation by any court or judge thereof of the appointment, order or decree theretofore entered in such trust matter shall be as valid and effective for all purposes as if any such neglect or failure had not occurred. [Amendment approved May 17, 1917; Stats. 1917, p. 617.]

§ 128. **Certificate of authorization issued.** When the certified copy of articles of incorporation of any bank shall have been filed with the secretary of state, and application made for the issuance of a certificate to do business as a bank, the superintendent of banks, provided he has not withheld granting his certificate for any of the reasons set forth in section one hundred twenty-seven hereof, shall ascertain, from the best sources of information at his command, whether the character and general fitness of the persons named as stockholders are such as to command the confidence of the community in which such bank is proposed to be located, and, if so satisfied, he shall, within sixty days after such application has been made to him, issue, under his hand and official seal, the certificate of authorization required by this act. The superintendent of banks shall file a duplicate of such certificate in his own office. [Amendment approved May 17, 1917; Stats. 1917, p. 619.]

§ 139. **Duty of board of directors. Report. Contents of report. When no examination made. Special examination by superintendent of banks. Report.** It shall be the duty of the board of directors of every bank to examine fully, or to cause a committee of at least three of its members, none of whom shall be an officer of the bank, to examine fully into the books, papers and affairs of the bank of which they are directors, and particularly into the loans and discounts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any given, in connection therewith, and into such other matters as the superintendent of banks may require; such examination to be made at least once a year, but no such subsequent yearly examinations shall be made within three months of the next preceding examination. Such directors shall have power to employ such assistance in making such examinations as they may deem necessary. Within thirty days after the completion of such examination, a report in writing thereof, sworn to by the directors making the same, shall be made by the board of directors of such bank, and placed on file with the records of said bank, and shall be subject to examination by the superintendent of banks.

Such report shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination, may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons

for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and, if not, a statement of that fact, and its actual value as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank.

If the directors of such bank shall fail to make such examination or fail to cause it to be made, or shall fail to file such report of such examination in the manner and within the time specified, the superintendent of banks shall have authority to make or cause to be made an extra examination of such bank, at the expense of such bank.

Whenever the board of directors of any bank may determine by resolution, duly entered in its minutes, that a special examination shall be made or caused to be made by the superintendent of banks in lieu of the examination herein required to be made by the board of directors of such bank, a certified copy of such resolution shall be transmitted to the superintendent of banks, whereupon it shall be the duty of the superintendent of banks to make or cause to be made a special examination of the affairs of such bank in lieu of the examination of such bank by the board of directors thereof. Such special examination shall be made at such time as the superintendent of banks may determine but in any event such examination shall be made within sixty days after the receipt by the superintendent of banks of the resolution hereinbefore referred to. The cost of making such examination shall be a charge against the bank for which such examination is made.

Upon the completion of such examination the superintendent of banks shall cause a report thereof in writing to be prepared and delivered to the board of directors of such bank at such time as may be fixed by the superintendent of banks, but not later than thirty days after the completion of such examination. [Amendment approved May 17, 1917; Stats. 1917, p. 619.]

§ 142. **Official reports prima facie.** Every official report made by the superintendent of banks and every report duly verified of an examination made, shall be prima facie evidence of the facts therein stated, for all purposes in any action or proceedings wherein the superintendent of banks is a party. [Amendment approved May 17, 1917; Stats. 1917, p. 620.]

§ 145. **Powers abridged, enlarged or modified. Investments made prior to July 1, 1909.** The powers, privileges, duties and restrictions conferred and imposed upon any corporation or individual existing and doing business under the laws of this state are hereby abridged, enlarged or modified as each particular case may require to conform to the provisions of this act, notwithstanding anything to the contrary in their respective articles of incorporation or charters. All the provisions of this act shall apply with equal force and effect to all corporations which are now doing or which may hereafter do a banking business in this state, except where express exception or exemption may

be made herein, and to such other persons, associations, copartnerships or corporations who shall, by violating any of its provisions, become subject to the penalties provided herein. The legality of investments heretofore made, or title to property heretofore acquired or conveyed through transactions heretofore had by any bank pursuant to any provision of law in force when such investments were made or transactions had, shall not be affected by the provisions of this act, except that any such investments made prior to July 1, 1909, when not complying with the provisions hereof, shall be changed to conform hereto; but such change shall be made gradually and in such maner as to prevent loss or embarrassment in the business of such bank, or unnecessary loss or injury to the borrowers on such security; provided that the legality of any investments heretofore lawfully made, pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section. [Amendment approved May 17, 1917; Stats. 1917, p. 620.]

ACT 298.

An act relating to the liquidation of banks by the superintendent of banks; empowering him to levy assessments against the members and stockholders of any bank in process of liquidation by him to an amount which he may determine to be necessary to promptly pay the creditors of such bank in full; to enforce such assessments by suit and empowering the superior court to determine the equities of the members and stockholders of any such bank to any surplus which may remain after the payment of the creditors of such bank in full and to award and distribute the same accordingly.

[Approved May 17, 1917. Stats. 1917, p. 581. In effect July 27, 1917.]

§ 1. Assessment of stockholders to pay creditors. Whenever the superintendent of banks shall hereafter take possession of the business and property of any bank doing business in this state for the purpose of liquidating its affairs, as provided by law, he may at any time during the process of such liquidation determine whether it shall be necessary to assess the members or stockholders of such bank in order to promptly pay the claims of the creditors of such bank in full and he shall make such assessments as he may determine to be necessary for that purpose.

§ 2. Complaint. Such determination shall be evidenced by a complaint or petition against all of the members and stockholders of such bank filed by the superintendent of banks in the superior court of the county where the principal place of business of such bank is or was located at the time of the taking of such possession.

§ 3. Further assessments. If such assessment, first made, shall prove inadequate to pay all of the creditors of such bank in full the superintendent of banks may make further assessments or assessments by filing supplemental complaints or petition in the same proceeding.

§ 4. Proceeds applied. In any such proceeding such assessment shall be enforced and collected and the proceeds thereof shall be added to the

funds of such bank and applied by the superintendent of banks for the payment of just claims against the same.

§ 5. **Payment of surplus.** If after the payment of all just claims against such bank and the cost of liquidation any surplus shall remain said court shall determine the equities of the respective members and stockholders of such bank thereto and direct the payment thereof by the superintendent of banks accordingly.

§ 6. **Action to collect assessments.** The superintendent of banks shall have power to maintain an action in any other state or country to enforce and collect such assessments against any of such members or stockholders and the proceeds thereof shall become a part of the fund and be subject to the same disposition as if collected in the proceedings provided for in this act.

§ 7. **Effect on prior actions.** This act shall not affect any action or proceeding instituted by the superintendent of banks prior to its enactment.

§ 8. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional or its operation or application is or may be limited or controlled by any constitutional provision.

TITLE 50.

BENEFIT SOCIETIES.

ACT 313.

An act for the regulation and control of fraternal benefit societies.

[Approved May 1, 1911. Stats. 1911, p. 1320.]

Amended 1915, p. 1273; 1917, pp. 164, 785, 1651.

The amendments of 1917 follow:

§ 6. **Beneficiaries. Beneficiaries of fraternal benefit societies.** The payment of death benefits shall be confined to wife, husband, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepchildren, children by legal adoption, or to a person or persons dependent upon the member; provided, that if there is not living any person above designated, the member may designate any friend as his beneficiary, or may direct that said benefit be paid to his estate; provided, further, that if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, he shall have the privilege, with the consent of the society, to make such institution his beneficiary. Within the above restrictions each member shall have the right to designate his beneficiary, and, from time to time, have the same changed in accord-

ance with the laws, rules or regulations of the society, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable upon the death of said member; provided, that any society may, by its laws, limit the scope of beneficiaries within the above classes. [Amendment approved May 21, 1917; Stats. 1917, p. 785.]

§ 23a. **Provisions to insure future security.** If the valuation of the certificates, as hereinbefore provided, on December 31, 1917, shall show that the present value of future net contributions, together with the admitted assets, is less than the present value of the promised benefits and accrued liabilities, such society shall thereafter at least maintain said financial condition at each succeeding triennial valuation in respect of the degree of deficiency as shown in the valuation as of December 31, 1917. If at any succeeding triennial valuation such society does not show at least the same condition, the insurance commissioner shall direct that it thereafter comply with the requirements herein specified. If the next succeeding triennial valuation after the receipt of such notice shall show that the society has failed to maintain the condition required herein, the insurance commissioner may, in the absence of good cause shown for such failure, institute proceedings for the dissolution of such society, in accordance with the provision of section twenty-four of this act, or in the case of a foreign society, its license may be cancelled in the manner provided in this act.

Any such society, shown by any triennial valuation, subsequent to December 31, 1917, not to have maintained the condition herein required, shall, within two years thereafter, make such improvement as to show a percentage of deficiency not greater than as of December 31, 1917, or thereafter, as to all new members admitted, be subject, so far as stated rates of contributions are concerned, to the provisions of section twelve of this act, applicable in the organization of new societies; provided, that the net mortuary or beneficiary contributions and funds of such new members shall be kept separate and apart from the other funds of the society. If such required improvement is not shown by the succeeding triennial valuation, then the said new members may be placed in a separate class and their certificates valued as an independent society in respect of contributions and funds. [Amendment approved April 24, 1917; Stats. 1917, p. 164.]

§ 23b. **Value of certificates on "accumulation basis." Value of certificate on "tabular basis." Table of rates and credits.** In lieu of the requirements of sections twenty-three and twenty-three *a*, any society accepting in its laws the provisions of this section may value its certificates on a basis, herein designated "accumulation basis," by crediting each member with the net amount contributed for each year and with interest at approximately the net rate earned and by charging him with his share of the losses for each year, herein designated "cost of insurance" and carrying the balance, if any, to his credit. The charge for the cost of insurance may be according to the actual experience of the society applied to a table of mortality recognized by the law of this state, and shall take into consideration the amount at risk during each

year, which shall be the amount payable at death less the credit to the member. Except as specifically provided in its articles or laws or contracts no charge shall be carried forward from the first valuation hereunder against any member for any past share of losses exceeding the contributions and credit. If, after the first valuation, any member's share of losses for any year exceeds his credit including the contribution for the year, the contribution shall be increased to cover his share of the losses, and if the credit at the time any benefit becomes payable during the lifetime of the member, including any available funds does not equal such benefit, the contributions to be made by him or on his behalf shall be increased by the difference. Any such excess share of losses chargeable to any member may be paid out of a fund or contributions especially created or required for such purpose.

Any member may transfer to any plan adopted by the society with net rates on which tabular reserves are maintained and on such transfer shall be entitled to make such application of his credit as provided in the laws of the society.

Certificates issued, rerated or readjusted on a basis providing for adequate rates with adequate reserves to mature such certificates upon assumptions for mortality and interest recognized by the law of this state shall be valued on such basis, herein designated the "tabular basis"; provided, that if on the first valuation under this section a deficiency in reserve shall be shown for any such certificate, the same shall be valued on the accumulation basis.

Whenever in any society having members upon the tabular basis and upon the accumulation basis, the total of all costs of insurance provided for any year shall be insufficient to meet the actual death and disability losses for the year, the deficiency shall be met for the year from the available funds after setting aside all credits in the reserve; or from increased contributions or by an increase in the number of assessments applied to the society as a whole or to classes of members as may be specified in its laws. Savings from a lower amount of death losses may be returned in like manner as may be specified in its laws.

If the laws of the society so provide, the assets representing the reserves of any separate class of members may be carried separately for such class as if an independent society, and the required reserve accumulation of such class so set apart shall not thereafter be mingled with the assets of other classes of the society.

A table showing the rates being paid by and the credits to individual members at each age and year of entry, and showing opposite each credit the tabular rates and the tabular reserve required, or at the option of the society the required reserve on a level rate equivalent to that being paid, according to assumptions for mortality and interest recognized by the laws of this state and adopted by the society, and, in either case, including any benefit payable at a specified age or on account of old age disability shall be filed by the society with each annual report and also be furnished to each member before July first of each year.

In lieu of the aforesaid statement there may be furnished to each member within the same time a statement giving the data aforesaid for such member. No table or statement need be made or furnished when the reserves are maintained on the tabular basis.

For this purpose, individual bookkeeping accounts for each member shall not be required and all calculations may be made by actuarial methods.

Nothing herein contained shall prevent the maintenance of such surplus over and above the credits on the accumulation basis and the reserves on the tabular basis as the society may provide by or pursuant to its laws; nor be construed as giving to the individual member any right or claim to any such reserve or credit other than in manner as expressed in the contract and its laws; nor as making any such reserve or credits a liability in determining the legal solvency of the society. [New section added April 24, 1917; Stats. 1917, p. 164.]

§ 31a. Penalty for officer, etc., borrowing funds. Any officer, director, agent or employee of any fraternal benefit society who shall directly or indirectly for himself or as partner or agent of others borrow any of the funds of such society or become indorser or surety for loans to others or in any manner be obligor for moneys borrowed or loaned by such society shall be guilty of a felony. [New section added June 1, 1917; Stats. 1917, p. 1651.]

§ 31b. Penalty for officer, etc., receiving reward for aiding loan. Any officer, trustee, agent or employee of a fraternal benefit society who asks or receives or consents or agrees to receive any commission, emolument, gratuity or reward or any money, property or thing of value for his own personal benefit, or of personal advantage, for procuring or endeavoring to procure for any person, firm or corporation any loans from the trust funds of, or funds belonging to, a fraternal benefit society shall be guilty of a felony. [New section added June 1, 1917; Stats. 1917, p. 1651.]

ACT 316.

An act to provide whole family protection for members of fraternal benefit societies.

[Approved April 20, 1917. Stats. 1917, p. 144. In effect July 27, 1917.]

§ 1. Fraternal benefit society may insure children. Total benefits payable. Any fraternal benefit society authorized to do business in this state and operating on the lodge plan, may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of two and eighteen years at next birthday, for whose support and maintenance a member of such society is responsible. Any such society may at its option, organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively, as follows: Two, thirty-four dollars; three, forty dollars; four, forty-eight dollars; five, fifty-eight dollars; six, one hundred forty dollars; seven, one hundred sixty-eight dollars; eight, two hundred dollars; nine, two hundred forty dollars; ten, three hundred

dollars; eleven, three hundred eighty dollars; twelve, four hundred sixty dollars; thirteen to fifteen, five hundred twenty dollars; and sixteen to eighteen years, where not otherwise authorized by law, six hundred dollars.

§ 2. **Conditions of benefit certificate.** No benefit certificate as to any child shall take effect until after medical examination or inspection by a licensed medical practitioner, in accordance with the laws of the society, nor shall any such benefit certificate be issued unless the society shall simultaneously put in force at least five hundred such certificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificate falls below five hundred. The death benefit contributions to be made upon such certificate shall be based upon the "standard industrial mortalty table" or the "English life table number six" and a rate of interest not greater than four per cent per annum, or upon a higher standard; provided, that contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws; and provided, further, that extra contributions shall be made if the reserves hereafter provided for become impaired.

§ 3. **Reserve required.** Any society entering into such insurance agreements shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in section two, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized; provided, that a society may provide that when a child reaches the minimum age for initiation into membership in such society, any benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any other form of certificate issued by the society, provided that such surrender will not reduce the number of lives insured in the branch below five hundred, and upon the issuance of such new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate, nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

§ 4. **Separate financial statement.** An entirely separate financial statement of the business transactions and of assets and liabilities rising therefrom shall be made in its annual report to the insurance commissioner by any society availing itself of the provisions hereof. The separation of assets, funds and liabilities required hereby shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in section three, as long as any certificates issued hereunder remain in force, and this requirement shall be recog-

nized and enforced in any liquidation, reinsurance, merger or other change in the condition of the status of the society.

§ 5. **Specified payments.** Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

§ 6. **Continuation of certificate.** In the event of the termination of membership in the society by the person responsible for the support of any child, on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided the contributions are continued, or for the benefit of any other person responsible for the support and maintenance of such child, who shall assume the payment of the required contributions.

TITLE 53.

BERKELEY.

ACT 332.

Charter of. [Stats. 1909, p. 1208.]

Amended 1913; States 1913, p. 1502; 1917, p. 1814.

ACT 334.

An act granting to the city of Berkeley the salt-marsh, tide and submerged lands of the state of California, including the right to wharf out therefrom to the city of Berkeley, and regulating the management, use and control thereof. [Approved June 11, 1913. Stats. 1913, p. 705.]

Amended 1915, p. 901; 1917, p. 915.

The amendment of 1917 follows:

§ 2. **Issuance of $100,000 in bonds before five years.** [Repealed May 24, 1917; Stats. 1917, p. 915.]

TITLE 58a.

BOARD OF CONTROL.

ACT 356.

An act to authorize the state board of control to sell certain lands.

[Approved June 1, 1917. Stats. 1917, p. 1634.]

§ 1. **Authority to sell certain lands.** The state board of control is hereby authorized and empowered to sell in such manner and method and at such time as said board may deem best all or part of that certain property situated in the county of San Joaquin, state of California, and described as follows, to wit:

A portion of the east one-half of section eighteen of C. M. Weber's Grant El Rancho Del C. de Los Franceses, and being the south fifteen acres of the following described piece of land: Commencing for the same at a stake situated at the southwest corner of the Maxwell tract, and running thence along Betts west line south sixteen degrees, fifty-five

minutes east, thirty-four and fifty one-hundredths chains to a stake; thence south seventy-three degrees five hundredths minutes west, eight and sixty-two and one-half one-hundredths chains to a point in the center line of a proposed road, said center line of said road being the easterly line of land now owned by Edw. Floyd Jones; thence along said easterly line of said land of said Edw. Floyd Jones north sixteen degrees and fifty-five minutes west, thirty-four and fifty hundredths chains to a point in Gray south line; thence along said Gray south line north seventy degrees and fifty-one minutes east eight and sixty-two and one-half one-hundredths chains to the point of beginning, containing thirty acres, more or less. Also an undivided one-half interest in the right of way granted by A. McCloud to Samuel Hewlett by deed dated the eleventh day of October, eighteen hundred sixty-nine.

§ 2. **Expenses.** The state board of control is hereby authorized to pay, out of the proceeds of said sale, the expenses necessarily incurred by said board in making such sale; which said proceeds, less the expenses so paid, shall be duly transferred by said board to the state treasurer.

§ 3. **Deed.** The governor is hereby authorized and directed to execute to the purchaser or purchasers of said property for and on behalf of and in the name of the state of California, a deed of conveyance of said property in the usual form of grant, bargain and sale and to deliver the same upon the payment of the full amount of the purchase price of said property; and said deed shall be effectual to pass and convey to said purchaser or purchasers all of the right, title, interest and estate of the state of California in and to said property.

TITLE 61.

BONDS.

ACT 387a.

An act making bonds of municipal water districts legal investments for certain purposes.

[Approved April 20, 1917. Stats. 1917, p. 158. In effect July 27, 1917.]

§ 1. **Municipal water district bond; legal investments.** All bonds heretofore or hereafter issued by any municipal water district under and in pursuance of the provisions of an act entitled "An act to provide for the incorporation and organization and management of municipal water districts, and to provide for the acquisition or construction by said districts of waterworks, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved May 1, 1911, as subsequently amended, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings and trust companies, and for the state school funds, and whenever any moneys or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state of California, such moneys or funds may be invested in the

said bonds of municipal water districts; provided, however, no bank shall invest or loan more than five per centum of its assets on any one such bond issue.

§ 2. **Construction of act.** This act is intended to be, and shall be considered, the latest enactment upon the matters herein contained, and is supplemental to any and all other acts regulating, relating to and declaring what shall be, legal investments.

ACT 389a.

An act to legalize bonds heretofore issued and sold, or to be issued and sold, by municipalities where authority for such issuance has already been given by a vote of not less than two-thirds of the electors of such municipality voting upon the question of incurring such indebtedness.

[Approved April 19, 1917. Stats. 1917, p. 143. In effect July 27, 1917.]

§ 1. **Municipal bonds authorized by vote of electors legalized.** In all cases where the legislative branch of any municipality in the state of California has deemed it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which said indebtedness is to be incurred, and has called a special election for the purpose of submitting to the qualified electors of such municipality the question whether the indebtedness specified in the resolution or ordinance calling such election shall be incurred, and where at such election not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, and such legislative branch of such municipality shall have passed an ordinance or resolution providing for the mode of creating such indebtedness and of paying the same, and the mode of creating such indebtedness has been by the proposed issuance of the bonds of such municipality, the power of such municipality to issue such bonds and all the acts and proceedings of such municipality leading up to and including the issuance and sale or the proposed issuance and sale of such bonds, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes; and all such bonds, sold either before or after the passage of this act for not less than their par value are hereby legalized and declared to be legal and valid obligations of and against such municipality so issuing and selling the same, and the faith and credit of such municipality is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

§ 2. **Exception.** This act shall not operate to legalize any bonds of any municipality that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds of the qualified electors of such municipality voting at any such election, or any bonds which have been sold for less than their par value.

TITLE 69.

BUILDING AND LOAN ASSOCIATIONS.

ACT 428.

Building and loan commission act.

[Approved April 5, 1911. Stats. 1911, p. 607.]

Amended 1911 (Ex. Sess.), p. 6, 1915, pp. 238, 992; 1917, pp. 426, 918. The amendments of 1917 follow:

§ 2. **Building and loan commissioner. Secretary.** The administration of said bureau shall be vested in a commissioner, to be known and designated as the "building and loan commissioner," who shall be appointed by the governor and commissioned to hold office at the pleasure of the governor. He must be a citizen of this state; and he must not be in any way connected with any association, corporation or society coming under his supervision. He shall appoint a secretary, who shall, ex officio, also be a deputy commissioner with full powers as such, and who must be a practical, skilled accountant, fully conversant with building and loan systems and accounts; he shall also appoint one deputy who shall be an accountant. [Amendment approved May 24, 1917; Stats. 1917, p. 918.]

§ 3. **Salaries. Office in San Francisco.** The commissioner shall receive a salary of three thousand six hundred dollars per annum, the secretary shall receive a salary of two thousand four hundred dollars per annum, and the deputy one thousand eight hundred dollars per annum, and such salaries shall be in full for all services rendered. There shall also be allowed and paid the necessary traveling expenses of the commissioner and the secretary, incurred while traveling in the line of their duties, not to exceed the sum of one thousand two hundred dollars per annum. The commissioner shall procure and have an office in the city of San Francisco, which office shall be kept open for business every business day, during such hours as are commonly observed by the banks of that city as banking hours. For such office there shall be allowed and paid a total rental of not exceeding seventy-five dollars per month. Said commissioner may also provide such fuel, stationery, printing, postage, office help and other necessary conveniences as may be requisite in such office, at a cost not to exceed in the aggregate the sum of one thousand six hundred dollars per annum. All said salaries and expenses shall be audited and paid in the same manner as the salaries and expenses of other state officers. [Amendment approved May 24, 1917; Stats. 1917, p. 919.]

§ 15a. **License to act as agent for sale of stock, etc. List of persons holding licenses.** No person receiving compensation therefor, other than an officer, director or salaried employee, no part of whose compensation consists of commissions, or other than a local resident agent who has resided in the county in which he holds such local agency for a period of not less than one year prior to the time that he took such agency, of a building and loan association or other similar corporation or society which is duly licensed by the commissioner, shall act as solicitor or agent for the sale of the shares of stock, shares of membership, certifi-

cates or other securities or forms of investment issued by, or for the securing of loans from, any such association, corporation or society until he has first procured from the commissioner a license therefor. To obtain such license there must be filed with the commissioner a duplicate of the authorization or appointment issued to him by, together with a request from, a licensed association, corporation or society that a license be issued to him to act as an agent or solicitor for it, and accompanied by a fee of one dollar. All such licenses shall expire by limitation on the thirtieth day of June succeeding their issue, but may be renewed from time to time, for an additional period of one year upon a request therefor from the association, corporation or society originally applying, and payment of a renewal fee of one dollar. Any such license may be revoked at any time on the application of the association, corporation or society for whom it was issued, or may be revoked by the commissioner for cause.

The commissioner shall keep an alphabetical list of the names of persons to whom such licenses are issued with the date of issue and renewal, and the name of the association, corporation or society for whom such licensee is authorized to act. All such licenses shall be issued under rules and regulations to be prescribed by the commissioner. [New section added May 24, 1917; Stats. 1917, p. 919.]

§ 17. **Suit to collect assessments. Building and loan inspection fund.** The collection of all moneys assessed, as herein provided, for the payment of salaries and annual expenses, or forfeitable as fines for failure to make payments of assessments, procure licenses, or make and file reports as herein specified, and due from any such association, corporation or society coming within the provisions of this act, or imposed as a penalty for violation of any order or summons, may be enforced by the commissioner by action instituted in any court of competent jurisdiction; and all moneys collected or received by the commissioner under this act, shall be deposited with the state treasurer, to be credited to a fund to be known and designated as the "building and loan inspection fund"; which said fund shall only be used in defraying the salaries and expenses provided for by this act; provided, however, that the commissioner may retain in his possession and under his control a sum not exceeding three hundred dollars to be used for the benefit of his office, as a revolving fund, for making advance payment of office rent and office expenses prior to the presentation and allowance of the periodical claims therefor. [Amendment approved May 11, 1917; Stats. 1917, p. 426.]

TITLE 69a.

BUILDINGS.

ACT 431.

An act to provide for the establishment within municipalities of districts or zones within which the use of property, height of improve-

ments and requisite open spaces for light and ventilation of such buildings, may be regulated by ordinance.

[Approved May 31, 1917. Stats. 1917, p. 1419. In effect July 30, 1917.]

§ 1. Cities may create districts with which buildings and trades regulated. For the public interest, health, comfort, convenience, preservation of the public peace, safety, morals, order and the public welfare, the city council, board of trustees or other legislative body of any incorporated city and town of California, hereinafter referred to as the council, may by ordinance create or divide the city in to districts within some of which it shall be lawful and within others of which it shall be unlawful to erect, construct, alter or maintain certain buildings, or to carry on certain trades or callings or within which the height and bulk of future buildings shall be limited.

§ 2. Restriction on location of industries, etc. The council may by ordinance regulate, restrict and segregate the location of industries, the several classes of business, trades or callings, the location of apartment or tenement houses, club houses, group residences, two-family dwellings, single family dwellings and the several classes of public and semi-public buildings, and the location of buildings or property designed for specified uses, and may divide the city into districts of such number, shape and area as the council may deem best suited to carry out the purposes of this act, subject to the provisions of section four hereof. For each such district regulations may be imposed designating the class of use that shall be excluded or subjected to special regulations and designating the uses for which buildings may not be erected or altered, or designating the class of use which only shall be permitted. Such regulations shall be designed to promote the public health, safety and general welfare. The council shall give reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the direction of building development in accord with a well-considered plan.

§ 3. Regulations of height of buildings. Area of courts, etc. Uniform throughout district. The council may place reasonable regulations and limitations upon the height and bulk of buildings hereafter erected and regulate and determine the area of yards, courts and other open spaces, having due regard to the nature of the use and occupancy in such case. The council may divide the city into districts of such number, shape and area as the council may deem best suited to carry out the purpose of this act, subject to the provisions of section four hereof. The regulations as to the height and bulk of buildings and the area of yards, courts and other open spaces shall be uniform for each class of building throughout each district. The regulations in one or more districts may differ from those in other districts. Such regulations shall be designed to secure safety from fire and other dangers and to promote the public health and welfare, and to secure provision for adequate light, air and reasonable access. The council shall pay reasonable regard to the character of buildings now erected in each district, the value of the

land, and the use to which it may be put to the end that such regulations may promote public health, safety and welfare.

§ 4. **Cities with planning commmission. Hearing.** In municipalities having a city planning commission the council shall require such commission to recommend the boundaries of such districts and appropriate regulations and restrictions to be enforced therein. Such commission shall make a tentative report and hold public hearings thereon at such times and places as said council shall require before submitting its final report. Said council shall not hereafter determine the boundaries of any district or impose any regulations until after the final report of the city planning commission is filed with the city clerk. Upon receiving such final report said council shall afford persons particularly interested, and the general public, an opportunity to be heard, at a time and place to be specified in a notice of hearing to be published in a newspaper to be designated for that purpose. Said newspaper to be a local newspaper, if there be one, otherwise a newspaper of general circulation within the municipality, and to be published not less than three times in any daily, or not less than once in any other newspaper of general circulation within the municipality, and, within the week within which said meeting is to be held.

§ 5. **Cities without planning commission.** In municipalities where there is no city planning commission the council may proceed in the manner prescribed in section four hereof and shall make the tentative report, arrange for and hold such public hearings, make such final report and afford all persons particularly interested and the general public, an opportunity to be heard at the time and place and in the manner prescribed in section four hereof.

§ 6. **Penalties.** The council may establish penalties for violations of such an ordinance once established and in effect.

ACT 431a.

An act authorizing and empowering municipalities to provide a procedure for the fixing and establishing of set-back lines on private property bordering on the whole or part of any street, avenue or highway, to prohibit the erection of buildings, fences or other structures between such set-back lines and the lines of any such street, avenue or highway, and to condemn any and all property necessary or convenient for that purpose.

[Approved May 31, 1917. Stats. 1917, p. 1421. In effect July 30, 1917.]

§ 1. **City council may establish set-back lines.** Whenever public interest or convenience may require, the city council of any municipality shall have full power and authority to provide a procedure for the fixing and establishing of set-back lines on private property bordering on the whole or part of any street, avenue or other highway, to prohibit the erection of buildings, fences or other structures between such set-back lines and the lines of any such street, avenue or other highway,

and to condemn any and all property necessary or convenient for that purpose.

§ 2. **Procedure.** The ordinance prescribing such procedure shall provide, among other things, for the passage of a resolution of intention describing the land deemed necessary to be taken or damaged therefor, also the exterior boundaries of the district of lands to be benefited by said work or improvement and to be assessed to pay the damages, costs and expenses thereof, and shall require that a written protest signed by the owners of a majority of the frontage upon the streets and parts of streets within the district to be assessed, and filed with such city council, shall be a bar to such proceeding for a period of six months from the date of the filing of such protest. The procedure shall provide for due notice and hearing to property owners liable to be assessed, also a method for the assessment and collection of benefits and the payment of damages, together with such other matters as may be necessary or convenient to promote the objects hereof.

ACT 431b.

An act to regulate the construction, reconstruction, moving, alteration, maintenance, use and occupancy of dwellings, and the maintenance, use and occupancy of the premises and land on which dwellings are erected or located, in incorporated towns, incorporated cities, and incorporated cities and counties, and to provide penalties for the violation thereof.

[Approved May 31, 1917. Stats. 1917, p. 1461. In effect September 1, 1917.]

§ 1. **Title.** This act shall be known as the "state dwelling-house act," and its provisions shall apply to incorporated towns, incorporated cities, and incorporated cities and counties of this state.

§ 2. **Duty of building department. Duty of housing department. In case no such departments. Powers of commission of immigration and housing.** It shall be the duty of the "building department" of every incorporated city, and incorporated city and county, to enforce all the provisions of this act pertaining to the erection, construction, reconstruction, moving, conversion, alteration, and arrangement of dwellings.

It shall be the duty of the "housing department" of every incorporated town, incorporated city, and incorporated city and county to enforce all the provisions of this act pertaining to the maintenance, sanitation, ventilation, use and occupancy of dwellings after said dwellngs have been erected, constructed or altered, as the case may be.

In the event that there is no building department or no housing department in an incorporated town, incorporated city or incorporated city and county, it shall be the duty of the officer or officers who are charged with the enforcement of ordinances and laws regulating the erection, construction or alteration of buildings, or the maintenance, sanitation, ventilation or occupancy of buildings, or of the police, fire or health

regulations in said incorporated town, incorporated city, or incorporated city and county to enforce all the provisions of this act.

Every incorporated town, incorporated city, or incorporated city and county in the state of California shall have, and it is hereby empowered and given authority to designate and charge by ordinance any other department or officer than the department or officers mentioned herein, with the enforcement of this act, or any portion thereof.

The commission of immigration and housing of California shall have, and it is hereby empowered and given authority to enforce the provisions of this act, which do not pertain to the actual creation, construction, reconstruction, moving, alteration or arrangement of dwellings in all incorporated towns, incorporated cities, and incorporated cities and counties, in the state of California, whenever said commission finds or discovers a violation or violations of the provisions of this act and notifies the local department or officer, or departments or officers who are charged with the enforcement of the provisions of this act, in writing, of such violation or violations, and the said local department or officer, or departments or officers, fail, neglect or refuse to enforce the provisions of the said act within thirty days thereafter; provided, however, that the said commission of immigration and housing of California shall enforce the provisions of this act only in the instances specified in said written notice.

§ 3. **Unlawful to construct dwelling contrary to act.** It shall be unlawful for any person, firm or corporation, whether as owner, agent, contractor, builder, architect, engineer, superintendent, foreman, plumber, tenant, lessee, lessor, occupant, or in any other capacity whatsoever, to erect, construct, reconstruct, alter, build upon, move, convert, use, occupy or maintain, or to cause, permit or suffer to be erected, constructed, reconstructed, altered, built upon, moved, converted, used, occupied or maintained any dwelling or any portion thereof contrary to the provisions of this act, or to commit or maintain or cause or permit to be committed or maintained any nuisance in or upon any dwelling or any portion thereof, or any of the premises, which are a part thereof, or which are required by the provisions of this act; or to do or to cause to be done, or to use or cause to be used, any privy, sewer, cesspool, plumbing or house drainage affecting the sanitary condition of any dwelling or any portion thereof, or of the premises thereof, contrary to any of the provisions of this act.

§ 4. **Alterations.** It shall be unlawful for any person to make any alterations or changes of any kind whatsoever, to any dwelling erected prior to the passage of this act, or to any dwelling hereafter erected, in any manner which would be inconsistent with any of the provisions of this act, or in violation of the said provisions of this act; or in any manner to diminish the size of the windows, or to remove any window or windows from the rooms contrary to any of the provisions of this act.

§ 5. **Building conveyed to use as dwelling. Building moved.** A building not erected for, or which is not used as a dwelling at the time

of the passage of this act, if hereafter converted to or altered for such use, shall thereupon become subject to all the provisions of this act affecting a dwelling hereafter erected.

A building used as a dwelling at the time of the passage of this act, if moved, shall be made to conform to all of the provisions of this act affecting dwellings hereafter erected, in so far as they pertain to unoccupied area.

§ 6. **Penalty for violation. Procedure.** Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment.

Except as herein otherwise specified, the procedure for the prevention of violations of this act, for the vacation of dwellings or premises unlawfully occupied, or for the abatement of a nuisance in connection with a dwelling or the premises thereof, shall be as set forth in the charter and ordinances of the municipality in which the procedure is instituted.

§ 7. **Power to enter building.** The department or departments charged with the enforcement of this act in any incorporated town, incorporated city or incorporated city and county, and the authorized officers, agents or employees of such department or departments may, whenever necessary, enter dwellings or portions thereof, or the premises thereof, within the corporate limits of such towns, cities, or cities and counties, for the purpose of inspecting such buildings, in order to secure compliance with the provisions of this act and to prevent violations thereof.

The members of the commission of immigration and housing of California and the agents, officers or employees of said commission may, whenever necessary, enter dwellings or portions thereof, or the premises thereof, for the purpose of inspecting such buildings in order to secure compliance with the provisions of this act and to prevent violations thereof.

The owner or his authorized agent may, whenever necessary, enter dwellings, or portions thereof, or the premises thereof, owned by him, to carry out any instructions or to perform any work required to be done by the provisions of this act; provided, however, that the authority to enter buildings, as in this section given to the persons hereinbefore enumerated, shall not be construed or deemed to apply to the entering of any such building between the hours of six o'clock P. M. of any day and six o'clock A. M. of the succeeding day, without the consent of the owner or of the occupants of such buildings; but in no event shall persons hereinbefore enumerated to enter any such buildings in the the authority in this section given be construed as permitting any of the absence of the occupants thereof without a proper written order, duly executed by a competent court authorized to issue such orders.

§ 8. **Definitions.** For the purpose of this act, certain words and phrases are defined as follows, unless it shall be apparent from their context that they have a different meaning:

Words used in the singular include the plural, and the plural, the singular.

Words used in the present tense include the future.

Words used in the masculine gender include the feminine, and the feminine, the masculine.

Words "building department," "housing department," "department charged with the enforcement of this act," shall be construed as if followed by the words, "of the incorporated town, incorporated city, or incorporated city and county," as the case may be, in which the dwelling is situated.

"Apartment" is a room or suite of rooms which is occupied, or is intended or designed to be occupied by one family for living and sleeping purposes.

"Basement" is any story or portion thereof partly below the level of the curb or the actual enjoining ground level, the ceiling of which in no part is less than seven feet above the curb level or actual adjoining ground levels. If the adjoining ground is excavated to or below the curb level, such excavated space shall have not less than the minimum width and length required in this act for outer courts.

"Building" is a dwelling. .

"Building department" means the commissioner of buildings, superintendent of buildings, chief inspector of buildings, or any officer or department charged with the enforcement of ordinances and laws regulating the construction and alteration of buildings or structures.

"Cellar" is any story or portion thereof, the ceiling of which is less than seven feet above the curb level and actual adjoining ground levels. "Curb level" is the curb level opposite the center of the front of lot, and in the event that a curb has not been established shall be deemed to be the average ground level at the front of lot.

"Department." Whenever the word "department" is used it means the building department, the housing department or such other department or officer, or department or officers, who are charged with the enforcement of the provisions of this act.

"Dwelling" is as follows:

(a) Any house or building, or any portion thereof, which contains not more than two apartments, or not more than five guest rooms, or,

(b) Any house or building, or any portion thereof, not more than one story in height, which contains more than two apartments, or,

(c) Any house or building, or any portion thereof, of more than one story and not more than two stories in height, which is designed, built, rented, leased, let or hired out to be occupied, or is occupied, as the home or residence of not more than four families (four apartments) and which is so arranged that each of the said families live independently of each other, and which building is constructed and arranged so that a separate section is or may be kept as a home or a residence of a separate family. Each such section having an entirely independent and separate entrance, and if a stairway is required, one separate stairway leading to each section from the street or from an outside vestibule on the level of the first floor of said building, and with no room, hallway, bathroom, water-closet or kitchen used in common by two or more families occupying the said building.

"Family" is one person living alone or a group of two or more persons living together in an apartment, whether related to each other by birth or not.

"Guest" is any person hiring and occupying a room for sleeping purposes, and shall include both boarders and lodgers.

"Guest room" is a room which is occupied, or is intended, arranged or designed to be occupied, for sleeping purposes by one or more guests.

"Housing department" is any department or commission charged with the enforcement of ordinances or laws regulating the occupancy and maintenance of dwelling-house buildings; and where no such department is maintained, shall be deemed to be the health commissioner, the department of health, health officer, or similar department charged with the enforcement of laws and ordinances regulating the maintenance and occupancy of buildings or structures and of the health and sanitary requirements.

"Lot" is a parcel or area of land on which is situated a dwelling, together with the land, and unoccupied spaces for such a dwelling, as required by this act; all of which land shall be owned by or be under the absolute lawful control and in the lawful possession of the dwelling.

"Nuisance" embraces public nuisance as known at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health, and shall also embrace the overcrowding with occupants of any room, insufficient ventilation, or inadequate or insanitary sewerage or plumbing facilities, or uncleanliness, and whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

"Person" is a natural person, his heirs, executors, administrators or assigns; also includes a firm, partnership or a corporation, its or their successors or assigns.

"Shall." Wherever this word is used it shall be mandatory.

"Street" is any public street, alley, thoroughfare or park having a minimum width of sixteen feet, measured from the front of lot to the opposite front of lot, and shall have been dedicated or deeded to the public for public use.

§ 9. Constructed in substantial manner. Every dwelling hereafter erected shall be constructed in a substantial manner; and the buildings shall be so constructed as to provide shelter to the occupants against the elements, and so as to exclude dampness in inclement weather.

§ 10. Sleeping in cellar. In no dwelling shall any room in the cellar be constructed, altered, converted or occupied for living or sleeping purposes.

§ 11. Rooms in basement. In no dwelling shall any room in the basement be constructed, altered, converted or occupied for living purposes unless it conforms to all of the requirements of this act for rooms in other parts of the building, and that the ceiling of each such room be in all parts not less than seven feet above the adjoining ground levels.

All the walls below the ground level and the floors of such a basement shall be dampproofed and waterproofed. Such dampproofing and

waterproofing shall run through the walls and up as high as the ground level and continue throughout the floor.

Every basement in such buildings shall be illuminated and ventilated.

§ 12. **Ventilation beneath floor. Floor area.** In every dwelling hereafter erected there shall be provided a clear air space under the lowest floor thereof of at least six inches, except where there is a ventilated basement or cellar underneath such floor, which clear air space shall be enclosed and provided with a sufficient number of openings, with removable screens, or similar provisions, of a size to insure ample ventilation. The surface underneath the floor shall be kept dry, drained, clean and free from any accumulation of rubbish, debris or filth.

The provisions of this section shall not be deemed to apply to masonry floors laid directly on the soil, nor to any self-supporting masonry floor.

§ 13. **Width and height.** In every dwelling hereafter erected, every room used for living or sleeping purposes shall contain at least ninety square feet of superficial floor area.

Every such room shall at every point be not less than seven feet in width, nor less than eight feet in height measured from the finished floor to the finished ceiling; except that attic rooms and rooms where sloping ceilings occur need be eight feet in height in but one-half the area of the room.

Every water-closet compartment shall be not less than thirty-six inches in width and every such compartment and bath or shower compartment shall have a height of not less than seven feet six inches measured from the finished floor to the finished ceiling.

§ 14. **Windows. Cornice. Opening into vent shaft. Opening through porch.** In every dwelling hereafter erected, every room used for living or sleeping purposes and every kitchen, water-closet compartment, shower or bathroom, shall have at least one window, of the area fixed by this act, opening directly upon a street, or upon unoccupied area not less than four in its least dimension and containing an area of not less than thirty-six square feet, and located on the same lot.

A cornice may extend into the unoccupied area two inches for each one foot in width of such unoccupied area.

Windows herein required shall be located so as properly to light all portions of the room, and shall be made so as to open in all parts and so arranged that at least one-half of the window may be opened unobstructed; provided, however, that the windows required by this section in a water-closet compartment or bath or shower room may be opened directly into a vent shaft, such vent shaft to be in no dimension less than eighteen inches; provided, further, that windows required to open onto a street or onto unoccuiped area may open through porches, provided that the said porches do not exceed seven feet in depth, measured at right angles to the windows and that at least seventy-five per cent of the entire side of the porch, bounded by the street or unoccupied area is left open, except that the open space may be inclosed with mosquito screens.

§ 15. **Window area.** In every dwelling hereafter erected the total window area in each room used for living or sleeping purposes shall be at least one-eighth of the superficial floor area of the room.

All measurements for window area shall be taken to outside of sash.

§ 16. **Window area in water-closet.** In every dwelling hereafter erected, the window area in a water-closet compartment or bathroom shall be not less than three square feet.

§ 17. **Water-closets.** Every dwelling hereafter erected shall be provided with one water-closet for each family living therein.

§ 18. **Plumbing fixtures.** In every dwelling hereafter erected every plumbing fixture shall be provided with running water.

Every plumbing fixture affecting the sanitary drainage system in dwellings hereafter erected shall be properly connected with the street sewer, if a street sewer exists in the street abutting the lot on which the building is located and is ready to receive connections. When it is impracticable to connect such plumbing fixtures with a street sewer, then the plumbing fixtures shall be connected and drained into a cesspool constructed satisfactorily to the department charged with the enforcement of this act; or some other means of sewage disposal satisfactory to the department charged with the enforcement of this act may be made until such time as it may become practicable and possible to connect with the street sewer.

§ 19. **Where no running water. Privy.** Water-closets, baths, showers, sinks, slop-sinks, faucets and other plumbing fixtures required by this act need not be installed in the event that the dwelling hereafter erected, or an existing dwelling as the case may be, is situated where there is no running water and where there is no practical means of sewage disposal, until such time as it becomes practical and possible to obtain running water and means of sewage disposal; provided, in every such case the department charged with the enforcement of this act shall decide whether or not it is practicable and possible to provide running water, or proper means of sewage disposal; provided, further, that proper toilet facilities shall be provided for the use of the occupants of such building. Such facilities shall be made sanitary. A privy, or toilet other than a water-closet, erected under the authority of this section shall consist of a pit at least three feet deep, with suitable shelter over the same to afford privacy and protection from the elements. The openings of the shelter and pit shall be inclosed by fly screening, and the door to the shelter shall be made to close automatically, by means of a spring or other device. No privy pit shall be allowed to become filled with excreta to nearer than one foot from the surface of the ground, and the excreta in the pit shall be covered with earth, ashes, lime or similar substances at regular intervals.

§ 20. **Earthenware bowls and seats.** In every dwelling hereafter erected, and in every dwelling now existing, all plumbing fixtures shall be properly trapped and vented and all such plumbing made sanitary in every particular. Water-closets hereafter installed shall have earthen-

ware bowls and shall have earthenware seats, or seats made of some nonabsorbent material integral with the bowls, or wooden seats, enameled or varnished or otherwise made nonabsorbent, attached directly to the bowls. All connections shall be of standard lead, iron, steel or brass.

No plumbing fixtures shall be inclosed with woodwork, but the space under and around the same must be left entirely open.

§ 21. **Cooking in bath compartment. Sleeping in cellar, etc. Floor space for each occupant.** It shall be unlawful for any person to cook or to prepare food, or to permit or suffer any person to cook or to prepare food in any bath, shower, slop-sink or water-closet compartment, or in any other place in the building which, in the judgment of the department charged with the enforcement of this act, is detrimental to the proper sanitation of such building.

It shall be unlawful for any person to live or sleep, or to permit or suffer any person to live or sleep, in any cellar, bath, shower or slop-sink room, water-closet compartment, hallway, closet or kitchen, or in any other place which, in the judgment of the department charged with the enforcement of this act, would be dangerous or prejudicial to life or health by reason of want of light, windows, ventilation, drainage, or on account of dampness, offensive, obnoxious or poisonous odors or in any room that shall be so overcrowded as to afford less than the following floor space for each occupant in accordance with the age of the said occupant:

Number of persons over 12 years of age	Number of persons under 12 years of age	Superficial floor area required
1	2	60 square feet
2	4	120 square feet
3	6	180 square feet
4	8	240 square feet
5	10	300 square feet
6	12	360 square feet

Additional floor area in the same ratio shall be provided for additional persons.

§ 22. **Repapering.** No wall, partition or ceiling of any room in any dwelling shall be repapered, calcimined, or have any other covering placed thereupon unless the old wall paper or other covering shall have first been removed therefrom, and the said wall, partition or ceiling cleaned, disinfected and freed from bugs, insects or vermin.

§ 23. **Repairs.** Every dwelling shall be maintained in good repair. The roofs shall be kept waterproof and all storm or casual water properly drained and conveyed therefrom to the street sewer, storm drain or street gutter.

Every water-closet, bathtub, sink, slop-hopper or other similar plumbing fixture shall at all times be kept clean, sanitary and in good working order.

§ 24. **Metal mosquito screening.** There shall be provided, whenever it is deemed necessary for the health of the occupants of any dwelling or for the proper sanitation or cleanliness of any such building, metal mosquito screening of at least sixteen mesh, set in tight-fitting removable sash, for each exterior door, window or other opening in the exterior walls of the building.

§ 25. **Garbage cans.** There shall be provided by the occupant or tenant for each dwelling a tight metal receptacle, with close-fitting metal cover, for garbage, refuse, ashes and rubbish as may be deemed necessary by the department charged with the enforcement of this act. The receptacles shall be kept in a clean condition by the occupants or tenants.

§ 26. **Room, etc., kept clean. Swill, etc., not to be deposited in plumbing fixtures.** Every room, hallway, passageway, stairway, wall, partition, ceiling, floor, skylight, glass window, door, carpet, rug, matting, window curtain, water-closet compartment or room, toilet room, bathroom, slop-sink or wash-room, plumbing fixture, drain, roof, closet, cellar, or basement in any dwelling, and the lot, and the premises thereof, shall be kept in every part clean and sanitary and free from all accumulation of debris, filth, rubbish, garbage or other offensive matter.

No person shall deposit, or cause or permit any person to deposit, any swill, garbage, bottles, ashes, cans or other improper substance in any water-closet, sink, slop-hopper, bathtub, shower, catch-basin, or in any plumbing fixture connection or drain therefrom, or otherwise to obstruct the same; or to place or cause or permit to be placed any filth, urine or other foul matter in any place other than the place provided for same; or to keep or cause or permit to be kept any urine or filth or foul matter in any room or apartment in any dwelling or in or about the said building or premises thereof for such length of time as to create a nuisance.

§ 27. **No animals in dwelling.** No horse, cow, calf, swine, sheep, goat, rabbit, mule or other animal, chicken, pigeon, goose, duck or other poultry shall be kept in any dwelling-house or any part thereof; nor shall any such animal or poultry, nor shall any stable, be kept or maintained within twenty feet of any window or door of such building.

§ 28. **Action to abate nuisance. Authority to execute order.** In case any dwelling, or any part thereof, is constructed, altered, converted or maintained in violation of any provisions of this act or of any order or notice of the department charged with its enforcement, or in case a nuisance exist in any such dwelling or building or structure or upon the lot on which it is situated, said department may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or nuisance, to prevent the occupation of said dwelling, building or structure, to prevent any illegal act, conduct of business in or about such dwelling or lot. In any such action or proceeding said department may, by affidavit setting forth the facts, apply to the superior court, or to any judge thereof, for an order granting the relief for which said action or proceeding is brought, or for an order enjoining all persons from doing or permitting to be done any work in or about such dwelling, building,

structure or lot, or from occupying or using the same for any purpose, until the entry of final judgment or order. In case any notice or order issued by said department is not complied with, said department may apply to the superior court, or to any judge thereof, for an order authorizing said department to execute and carry out the provisions of said notice or order, to remove any violation specified in said order or notice, or to abate any nuisance in or about such dwelling, building or structure, or the lot upon which it is situated. The court, or any judge thereof, is hereby authorized to make any order specified in this section. In no case shall the said department or any officer thereof or the municipal corporation be liable for costs in any action or proceeding that may be commenced in pursuance of this act.

§ 29. **Fine a lien.** Every fine imposed by judgment under section six of this act upon a dwelling owner shall be a lien upon the house in relation to which fine is imposed, from the time of the filing of a certified copy of said judgment in the office of the recorder of the county in which said dwelling is situated, subject only to taxes and assessments and water rates, and to such mortgage and mechanics' liens as may exist thereon prior to such filing; and it shall be the duty of the department charged with the enforcement of the provisions of this act, upon the entry of such judgment, to file forthwith the copy as aforesaid, and such copy upon filing shall be forthwith indexed by the recorder in the index of mechanics' liens.

§ 30. **Notice of pendency of action.** In any action or proceeding instituted by the department charged with the enforcement of this act, the plaintiff or petitioner may file, in the county recorder's office of the county where the property affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Said notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards before final judgment or order, or at any time after the service of any notice or order issued by said department. Such notice shall have the same force and effect as the notice of pendency of action provided for in the Code of Civil Procedure. Each county recorder with whom such notice is filed shall record it and shall index it in the name of each person specified in a direction subscribed by an officer of the department instituting such action or proceeding. Any such notice may be vacated upon the order of a judge of the court in which such action or proceeding was instituted or is pending. The recorder of the county where such notice is filed is hereby directed to mark such notice and any record or docket thereof as canceled of record, upon the presentation and filing of a certified copy of such order.

§ 31. **Time of service.** Every notice or order in relation to a dwelling shall be served five days before the time for doing the thing in relation to which it shall have been issued.

§ 32. **Manner of service.** In any action brought by any department charged with the enforcement of this act in relation to a dwelling for injunction, vacation of the premises or other abatement of nuisance, or

to establish a lien thereon, it shall be sufficient service of summons to serve the same as notices and orders are served under the provisions of the Code of Civil Procedure.

§ 33. Minimum requirements. Supplementary laws. Repealed. Power of cities not abrogated. The provisions of this act shall be held to be the minimum requirements adopted for the protection, the health and the safety of the community, and for the protection, the health and the safety of the occupants of dwellings. Nothing in this act contained shall be construed as prohibiting the local legislative body of any incorporated town, incorporated city, or incorporated city and county, from enacting from time to time, supplementary ordinances or laws imposing further restrictions or providing for fees to be charged for permits, certificates or other papers required by this act; but no ordinance, law, regulation or ruling of any municipal department, authority, officer or officers, shall repeal, amend, modify or dispense with any of the provisions of this act.

All statutes of the state and all ordinances of incorporated towns, incorporated cities and incorporated cities and counties, as far as inconsistent with the provisions of this act, are hereby repealed; provided, that nothing in this act contained shall be construed as repealing or abrogating any present ordinance or law of any incorporated town, incorporated city, or incorporated city and county, in the state which further restricts the percentage of the lot to be covered by a dwelling, the occupation thereof, the materials to be used in its construction, or increasing the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

Nothing in this act contained shall be construed as abrogating, diminishing, minimizing or denying the power of any incorporated town, incorporated city, or incorporated city and county, by ordinance or law, to further restrict the percentage of the lot to be covered by a dwelling within said municipality, the occupation thereof, the materials to be used in its construction, or increasing the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

§ 34. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 35. In effect when. This act shall take effect and be in force from and after September 1, 1917.

TITLE 73.

BURNED OR DESTROYED RECORDS OR DOCUMENTS.

ACT 436.

An act to provide for the establishment and quieting title to real property in case of the loss or destruction of public records.

[Approved June 16, 1906. Stats. 1906 (Ex. Sess.), p. 78.]

Amended 1909, p. 163; 1911, p. 6; 1913, p. 135; 1917, p. 80. Supp. 1907, p. 950.

The amendment of 1917 follows:

§ 1. Title to real property when public records are destroyed. Whenever the public records in the office of the county recorder of any county have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by flood, fire or earthquake, any person who claims an estate of inheritance, or for life in, and who is by himself or his tenant, or other person, holding under him, in the actual and peaceable possession of any real property in such county, or of any real property now in another county but which was formerly in the county of which all or a material part of the records were lost or destroyed as aforesaid, in the event that the records so lost or destroyed included all or a material part of the public records in the office of said county recorder covering all or a material part of the time when said last mentioned real property was in the county whose records were so lost or destroyed, may bring and maintain an action in rem against all the world, in the superior court for the county in which such real property is situate, to establish his title to such property and to determine all adverse claims thereto. Any number of separate parcels of land claimed by the plaintiff may be included in the same action. [Amendment approved April 6, 1917; Stats. 1917, p. 80.]

§ 9. Record of pendency of action. The plaintiff must, at the time of filing the complaint, and every defendant claiming any affirmative relief must, at the time of filing his answer, record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action containing the object of the action or defense, and a particular description of the property affected thereby; and the recorder shall record the same in a book devoted exclusively to the recordation of such notices and, if the property is still situated in the same county in which the records were destroyed, shall enter, upon a map or plat of the parcels of land, to be kept by him for that purpose, on that part of the map or plat representing the parcel or parcels so described a reference to the date of the filing of such notice and, when recorded, to the book and page of the record thereof. [Amendment approved April 6, 1917; Stats. 1917, p. 80.]

TITLE 74.

BUTTE COUNTY.

ACT 444.

Charter of Butte county. [Stats. 1917, p. 1791.]

TITLE 75.

BUTTER.

ACT 473.

An act to prevent the manufacture or sale of dairy products from unhealthy animals, or that are produced under unsanitary conditions; to prevent deception or fraud in the production and sale of dairy products, and in the manufacture and sale of renovated butter and oleomargarine; to license the manufacture and sale of renovated butter, and oleomargarine; to regulate the business of producing, buying and selling dairy products, oleomargarine, renovated or imitation butter and cheese; to provide for the enforcement of its provisions and for the punishment of violations thereof, and appropriating money therefor and to repeal section 17 of an act approved March 4, 1897, entitled "An act to prevent deception in the manufacture and sale of butter and cheese, to secure its enforcement, and to appropriate money therefor," and to repeal all acts and parts of acts inconsistent with this act.

[Approved April 21, 1911. Stats. 1911, p. 959.]

Amended 1915, pp. 332, 352, 1456. 1917, p. 1654.

The amendment of 1917 follows:

§ 1a. **Milk containers to be cleansed.** Every person, firm or corporation, not a common carrier, who receives from a common carrier in cans, bottles, vessels, or other containers, to be thoroughly cleansed and intended for human consumption, which has been transported over any railroad, or boat or freight line, or by other common carrier, or auto truck, which said cans, bottles, vessels, or other containers, are to be returned to the consignor or shipper, shall cause the said empty cans, bottles, vessels, or other containers, any milk, cream and ice cream sterilized by boiling water or superheated steam before return shipment of the same; provided, further, that all empty cans, bottles, vessels, or other containers, delivered to the consumer by the retailer shall be thoroughly and immediately cleansed before returning the same to the dealer or distributor. [New section added June 1, 1917; Stats. 1917, p. 1657.]

§ 2. **Unsanitary dairies.** A dairy shall be deemed unsanitary within the meaning of this act, among other causes that render milk, or products made therefrom, unclean, impure, and unhealthy, in the following cases:

(a.) If the drinking water is stagnant, polluted with manure, urine, drainage, decaying vegetable or animal matter.

(b) If the yards or inclosures are filthy or unsanitary or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise where it is allowed to ferment and decay.

(c) If a suitable milk house or room is not provided and maintained, properly screened to exclude flies and insects, for the purpose of cooling, mixing, canning, and keeping the milk. Said milk house or room, shall not be located in or be a part of any residence, or dwelling-house, or

any barn or poultry-house, and shall not be used for any other purpose whatsoever.

(d) If any milk or cream shall be cooled, stored, mixed, canned, or kept in any room or place which is occupied by any person or persons as a sleeping or living apartment, or occupied by horses, cows, hogs or other animals, or fowls of any kind, and if the milk or cream shall not be cooled to as low a temperature as practicable within one hour after it is drawn from the cows.

(e) If any urinal, privy vault, open cesspool, horse stable, pig-pen, stagnant water, accumulation of manure or other filth shall be permitted within one hundred feet of any such milk house or room, or within fifty feet of any cow stalls or stanchions or other place where milking is done.

(f) If the walls become soiled with manure, urine or other filth.

(g) If to the interior of cattle stables, barns, milking-sheds, milk house or room, an application of lime whitewash is not made at least once in two years, or oftener if in the judgment of the agent of the state dairy bureau it is needed, or if in the mangers, or other receptacles from which cows are fed, decaying food or other material is allowed to accumulate.

(h) If the pails, cans, bottles or other containers of milk, or its products, or the strainers, coolers or other utensils coming in contact with the milk or its products, are not sterilized by boiling water or superheated steam each and every time the same are used.

(i) If the person or wearing apparel of the dairyman, his employees, or other persons, who come in contact with milk and its products, are soiled or not washed from time to time with reasonable frequency.

§ 25. Weighing and sampling milk. Testing milk. Tester licensed by state dairy bureau. License valid one year. License to receive milk on basis of butter fat contained. License fees. It shall be unlawful for any hauler of milk, or cream, or any person, firm or corporation receiving or purchasing milk or cream by weight or test or both, or by measure or test or both, to fraudulently manipulate the weight, measure or test of milk or cream of any person or to take unfair samples thereof, or to fraudulently manipulate such samples. The hauler or other agent shall weigh or measure the milk or cream of each patron accurately and correctly and shall report such weights or measurements accurately and correctly to the creamery or factory. He shall thoroughly mix the milk or cream of each patron by pouring or stirring until such milk or cream is uniform and homogeneous in richness, before the sample is taken from milk or cream. When the weighing or sampling is done at the creamery, shipping station or factory, the same rule shall apply.

It shall be unlawful for any person, firm or corporation, by himself or as the agent, servant, employee or officer of any person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein, to under-read, over-read or otherwise fraudulently manipulate the Babcock test used for determining the per cent of butter fat in milk or cream, or to falsify the records thereof or to read the test at any other temperature than the correct one, which is one hundred thirty degrees to one hundred forty degrees Fahrenheit, or to pay on the basis of any measurements or weight except the true

measurement or weight, which is seventeen and six-tenths cubic centimeters for milk and nine grams or eighteen grams for cream; provided, that in all tests for cream the cream shall be weighed into the test bottle. All testing of milk or cream purchased on the basis of the amount of butter fat contained therein, shall be done by a licensed tester who shall supervise and be responsible for the operation of the Babcock test of milk or cream. The license shall be issued to such person by the state dairy bureau whose duty it shall be to examine into the qualifications of all applicants for such license, and every such applicant shall satisfy said bureau of his qualifications and comply with the provisions herein before any license shall be issued to him.

The license shall be valid for the term of one year unless sooner revoked and shall be revoked by the state dairy bureau if, after due notice, the license has failed to comply with the laws, rules, and regulations under which the license was granted; provided, that the provisions of this section shall not apply to individuals, hotels, restaurants or boarding-houses buying milk or cream for private use.

Every creamery, shipping station, milk factory, cheese factory, ice cream factory, condensory, or any person, firm or corporation receiving or purchasing milk or cream on the basis of butter fat contained therein, shall be required to hold a license so to do. The license shall be issued to such creamery, shipping station, milk factory, condensory, ice-cream factory, cheese factory, or person, firm or corporation by the state dairy bureau upon complying with all sanitary laws, rules and regulations of the state of California and upon complying with the provisions of this act and upon payment of a license fee as provided for in this section. This license shall be valid for the term of one year unless sooner revoked, and shall be revoked by the state dairy bureau if, after due notice, the licensee fails to comply with the laws, rules and regulations under which it was granted; provided, that the provisions of this section shall not apply to individuals, hotels, restaurants, and boarding houses buying milk or cream for private use.

The testers' license shall be issued upon compliance with the provisions of this act and upon payment by the applicant to the state dairy bureau of the sum of one dollar. The creamery license shall be issued upon compliance with the provisions of this act, and upon payment by the applicant to the state dairy bureau of one dollar. The money for license fees as provided for in this section shall be paid by the state dairy bureau into the state treasury and shall become a part of the funds for the use of the state dairy bureau. [New section added June 1, 1917; Stats. 1917, p. 1657. Old section 25 repealed June 1, 1917; Stats. 1917, p. 1657.]

§ 26. Inspection of Babcock test bottles. Fee for testing. Every person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein as determined by the Babcock test, shall use the standard Babcock test bottles, pipettes and accurate weights and scales as defined in this act, and all Babcock test bottles and pipettes shall have been inspected for accuracy by the state dairy bureau or its agent and shall be legibly and indelibly marked by the state dairy bureau or its agents with the letters "D. B."

It shall be unlawful for any firm or corporation or any of their agents to use any other than standard test bottles and pipettes which have been examined and marked as provided by this section, to determine the amount of fat in milk or cream received or purchased on the butter fat basis.

For all testing of glassware by the said state dairy bureau or its agent, a fee of five cents shall be paid by the owner of said glassware to the state dairy bureau for every piece of glassware so examined, and said fee shall be used by the state dairy bureau to defray the cost of testing such glassware. [New section added June 1, 1917; Stats. 1917, p. 1659. Old section 26, repealed June 1, 1917; Stats. 1917, p. 1659.]

§ 27. **Specifications for standard Babcock testing glassware.** The term "standard Babcock testing glassware" shall apply to glassware and weights complying to the following specifications: (a) Graduation for milk test bottles. The total per cent graduation shall be eight. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches), the graduation shall represent whole per cent, five-tenths per cent, and tenths per cent. The tenths per cent graduation shall not be less than three millimeters in length; the five-tenths per cent graduations shall be one millimeter longer than the tenths per cent graduations, projecting one millimeter to the left; the whole per cent graduations shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per cent graduations. Each per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

The neck shall be cylindrical and the cylindrical shape shall extend for at least nine millimeters below the lower and above the highest mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

The capacity of the bulb up to the junction of the neck shall not be less than forty-five c. c. (cubic centimeters). The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters. The charge of the bottle shall be eighteen grams. The total height of the bottle shall be between one hundred fifty and one hundred sixty-five millimeters (five and seven-eighths and six and one-half inches.)

(b) Two types of bottles shall be accepted as standard cream test bottles, a fifty per cent nine gram long-neck bottle, and a fifty per cent eighteen gram long-neck bottle.

Fifty per cent, nine gram, long-neck bottle. The same specifications in every detail as specified for the fifty per cent nine gram, short-neck bottle shall apply for the long-neck bottle, with the exception, however, that the total height of this bottle shall be between two hundred ten and two hundred thirty-four millimeters (eight and one-fourth and eight

and seven-eighths inches) and that the total length of the graduation shall be not less than one hundred twenty millimeters.

The fifty per cent, eighteen gram, long-neck bottle. The same specifications in every detail as specified for the fifty per cent, nine gram, long-neck bottle, shall apply, with the exception that the charge of the bottle shall be eighteen grams, and the mark defining the weight of the charge placed at the top of the neck shall be eighteen.

The total length of the standard Babcock pipette shall be not more than three hundred thirty millimeters (thirteen and one-fourth inches.) Outside diameter of suction tube, six to eight millimeters. Length of suction tube, one hundred thirty millilmeters. Outside diameter of delivery tube four and five-tenths to five and five-tenths millimeters. The length of delivery tube one hundred to one hundred twenty millimeters. Distance of graduation mark above bulb, thirty to sixty millimeters. Nozzle straight. Delivery seventeen and six-tenths cubic centimeters of water at twenty degrees centigrade in five to eight seconds.

The sensibility of all scales used for weighing cream samples into the test bottles shall be not more than thirty milligrams and the standard weights shall be nine grams and eighteen grams.

In all testing of milk or cream where the same is received or purchased upon the basis of the amount of butter fat contained therein, the Babcock tester shall be operated at the proper speed, which is as follows:

For tester with diameter of fourteen inches the speed shall be between eight hundred twenty-five and eight hundred seventy-five revolutions per minute.

For tester with diameter of sixteen inches, the speed shall be between eight hundred twenty-five and eight hundred seventy-five revolutions per minute.

For tester with diameter of eighteen inches, the speed shall be between seven hundred seventy-five and eight hundred twenty-five revolutions per minute.

For tester with diameter of twenty inches, the speed shall be between seven hundred twenty-five and seven hundred seventy-five revolutions per minute.

For tester with a diameter of twenty-four inches, the speed shall be between five hundred seventy-five and six hundred twenty-five revolutions per minute. [New section added June 1, 1917; Stats. 1917, p. 1659. Old section 27 repealed June 1, 1917; Stats. 1917, p. 1657.]

§ 35. Branding cheese. Dairy bureau to issue brands. Grades of cheese defined. Unlawful to sell without brand. Every person, firm or corporation who shall manufacture cheese in the state of California, shall at the place of manufacture, brand distinctly and durably on each and every cheese manufactured, and upon the package or box, when shipped, the grade of cheese manufactured, as follows: "full-cream cheese," or "half-skim cheese," or "skim cheese."

All brands for branding the different grades of cheese shall be procured from the state dairy bureau, and said bureau is hereby directed and authorized to issue to all persons, firms or corporations, upon application therefor, uniform brands, consecutively numbered, of the

different grades specified in this section. The state dairy bureau shall keep a record of each and every brand issued, and the name and location of the manufacturer receiving the same. No manufacturer of cheese in the state of California other than the one to whom such brand is issued, shall use the same, and in case of a change of location, the party shall notify the bureau of such change.

The different grades of cheese are hereby defined as follows: First: Such cheese only as shall have been manufactured from pure milk, and from which no portion of the butter fat has been removed by skimming or otherwise, and having not less than fifty per cent of butter fat in its water-free substance, which shall be conspicuously branded as "full-cream cheese." Second: Such cheese only as shall have been made from pure milk, and having not less than twenty-five per cent of butter fat in its water-free substance, which shall be conspicuously branded as "half-skim cheese." Third: Such cheese only as shall have been made from pure skim milk, which shall be conspicuously branded as "skim cheese."

No person or persons, firm, association or corporation shall sell or offer for sale in this state any cheese which is not branded either "full-cream cheese," "half-skim cheese," or "skim cheese," in accordance with its butter fat content. [Amendment approved June 1, 1917; Stats. 1917, p. 1656.]

§ 42. **Disposition of fines.** One-half of all the fines imposed for the violation of any of the provisions of this act shall be paid to the county in which the fine is imposed. The other one-half shall be paid to the state treasurer and shall become part of the general fund. [Amendment approved June 1, 1917; Stats. 1917, p. 1657.]

TITLE 81.

CALIFORNIA REDWOOD PARK.

ACT 508.

An act providing for the enlargement of the California redwood park, making an appropriation for the purchase of additional land therefor, and granting power to the California redwood park commission to purchase the same.

[Approved May 28, 1917. Stats. 1917, p. 1281. In effect July 27, 1917.

§ 1. **Appropriation: enlargement of California redwood park.** The sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, and which shall be used for the purchase by the California redwood park commission of land contiguous to the California redwood park suitable for the enlargement of said park. Said appropriation shall be available at the rate of fifteen thousand dollars a year.

§ 2. **Power of park commission to purchase land.** The California redwood park commission shall have the power to purchase said land, or any portion thereof, as in its judgment shall seem most suitable for an addition to and enlargement of said California redwood park, considering

the protection of said California redwood park from forest fires, and the conserving of the headwaters of the streams draining said California redwood park, and of the stand of timber or trees of the species known as Sequoia sempervirens on said lands to be purchased; or it may proceed by action at law to condemn the same, or any portion thereof.

§ 3. **Examination of abstracts of title.** No payment of any part of said sum shall be made until an abstract or abstracts of title shall have been furnished to the attorney general of the state of California, showing that the lands purchased, and the whole thereof, are free from any valid liens or encumbrances thereon, and it is hereby made the duty of said attorney general to examine said abstract or abstracts of title and render and deliver to said commission his opinion in writing, certifying that no valid liens or encumbrances exist thereon and that the title to said lands, and the whole thereof, is good and valid. Said opinion of the attorney general, together with said abstract or abstracts of title shall be filed in the office of the secretary of state.

TITLE 82.

CALIFORNIA SCHOOL FOR GIRLS.

ACT 511b.

An act to establish a state training school for girls; to provide for the maintenance and management of the same, and to make an appropriation therefor.

[Approved June 14, 1913. Stats. 1913, p. 857.]

Amended 1915, p. 53; 1917, p. 473.

The amendment of 1917 follows:

§ 2. **Penalty for aiding escapes.** Any person who knowingly permits or aids any inmate of the California School for Girls to escape therefrom or conceals her with the intent of enabling her to elude pursuit, shall be guilty of a misdemeanor. Any fugitive from said school, or from the parties with whom she has been placed on parole, may be arrested and returned to said school by any person, upon the written order of the superintendent thereof. [Amendment approved May 14, 1917; Stats. 1917, p. 474.]

§ 3. **Officers of board of trustees.** The board of trustees shall elect annually a president, a vice-president and a secretary, whose terms of office shall be one year or until their successors are elected and qualified. No one but a member of the board shall be elected president or vice-president thereof. The board shall appoint a superintendent, not of their own number, who shall be a woman qualified by training and experience for the character of work to be done at this school, and fix her salary at not to exceed three thousand six hundred dollars per annum. Such superintendent shall hold office at the pleasure of the board. [Amendment approved May 14, 1917; Stats. 1917, p. 473.]

TITLE 83.

CALIFORNIA STATE REFORMATORY.

ACT 512a.

An act providing for the control and management of a tract of land owned by the state of California and situated in the county of Napa, in said state.

[Approved May 5, 1917. Stats. 1917, p. 250. In effect July 27, 1917.]

§ 1. **Board of control to manage land in Napa county.** The board of control of the state of California is hereby authorized and directed to take charge of, manage and farm for the use and benefit of the state and its institutions, all of that certain tract of land with all improvements and appurtenances thereto attached, and formerly known as the "Fry Ranch," which said tract of land is situated near the town of Rutherford in the county of Napa, state of California, and being that certain property purchased by the state under the provisions of an act of the legislature of the state of California entitled: "An act to establish the California state reformatory; to provide for the purchase of land therefor, and the construction of buildings and other improvements in connection therewith; to provide for the commitment and transfer of prisoners thereto and therefrom; to provide for the equipment, conduct and management thereof; and to make an appropriation therefor," approved April 24, 1911.

§ 2. **Use of water.** Said board of control shall have power to take and conduct therefrom for the use and benefit of the state of California such quantity of water as may be determined by the state engineer to be necessary for the use of the Veterans' Home at Yountville and the Napa State Hospital, both in the county of Napa, and to acquire rights of way by purchase, lease or condemnation for such purpose.

§ 3. **Use for agricultural purposes.** In carrying out the provisions of this act the board of control shall have power if it shall be deemed advisable, to co-operate with the governing board of any state institution for the purpose of utilizing said property for agricultural or horticultural purposes or as a stock or dairy farm and to transfer to and maintain upon said property any stock, cattle, cows, or other animals now owned or hereafter acquired by any of such institutions and to distribute to such institutions by arrangement therewith the product of said property or of the animals maintained thereon.

§ 4. **Prisoners, etc., not to be kept on property.** From and after the passage of this act, no person shall be committed by any court to imprisonment or confinement upon said property in the county of Napa, and no prisoner from any state prison or reformatory, and no patient from any state hospital for the insane, shall be transferred to, kept, housed or retained upon said property by the state board of control, or by the superintendent or governing officer or board of any such institution.

TITLE 89a.

CARQUINEZ STRAITS.

ACT 542b.

An act providing for the disposition of certain property.

[Approved April 21, 1851. Stats. 1851, p. 305.]

Amended 1917; 1917, p. 193.

The amendment of 1917 follows:

§ 2. **Leases limited to fifty years.** The said property above described, and the proceeds thereof, shall be disposed of by the trustees of said town and their successors in office for the improvement of the said town, and for the benefit of commerce, by the construction of wharves, piers, and docks, and otherwise; provided, that these lands may be leased for a period not exceeding fifty years, subject to all of said uses and trusts. [Amendment approved April 24, 1917; Stats. 1917, p. 193.]

TITLE 90.

CEMETERIES.

ACT 545.

An act to protect public health from infection caused by exhumation and removal of the remains of deceased persons.

[Approved April 1, 1878. Stats. 1877–78, p. 1050.]

Amended 1889, p. 130; 1917, p. 36.

The amendment of 1917 follows:

§ 2. **Provisions for disinterring remains.** Permits to disinter or exhume the bodies or remains of deceased persons, as in the last section, may be granted; provided, the person applying therefor shall produce a certificate from the coroner, registrar, the physician who attended such deceased person, or other physician in good standing cognizant of the facts, which certificate shall state the cause of death or disease of which the person died, and also the age and sex of such deceased; and provided, further, that the body or remains of deceased shall be enclosed in a metallic case or coffin, sealed in such manner as to prevent, as far as practicable, any noxious or offensive odor or effluvia escaping therefrom, and that such case or coffin contains the body or remains of but one person, except where the infant children of the same parent or parents, or parent and children are contained in such case or coffin. And the permit shall contain the above conditions and the words "Permit to remove and transport the body of ——, age ——, sex ——," and the name, age, and sex shall be written therein. [Amendment approved April 5, 1917; Stats. 1917, p. 36.]

TITLE 106.

COLD STORAGE.

ACT 624.

An act relating to cold storage, the regulation of refrigerating warehouses, the disposition or sale of food kept or preserved therein, and defining the duties of the state board of health in relation thereto.

[Approved June 13, 1913. Stats. 1913, p. 769.]

Amended 1915, p. 601; 1917, p. 152.

The amendment of 1917 follows:

§ 2. Application to operate cold storage plant. License fee. Restaurants, hotels, etc., excepted. Any person, firm or corporation desiring to operate a cold storage or refrigerating warehouse wherein shall be stored "articles of food" for a period exceeding thirty days, shall make application in writing to the state board of health for that purpose, stating the location of its plant or plants. On receipt of the application the state board of health shall cause an examination to be made into the sanitary condition of said plant or plants and if found to be in a sanitary condition and otherwise properly equipped for the business of cold storage, the state board of health shall cause a license to be issued authorizing the applicant to operate a cold storage or refrigerating warehouse for and during a period of one year. The license shall be issued upon payment by the applicant of a license fee to the state board of health for each and every warehouse or plant operated by applicant under the provisions of this act for all cold storage or refrigerating warehouses or plants having a capacity of ten thousand cubic feet, or less, a fee of fifteen dollars. For all cold storage or refrigerating warehouses or plants having a capacity of more than ten thousand cubic feet and less than fifty thousand cubic feet, a fee of thirty dollars. For all cold storage or refrigerating warehouses or plants having a capacity of more than fifty thousand cubic feet and less than one hundred thousand cubic feet, a fee of forty dollars. For all cold storage or refrigerating warehouses or plants having a capacity of one hundred thousand cubic feet or more, a fee of fifty dollars.

The secretary of the state board of health shall keep a full and correct account of all fees received under the provisions of this act, and shall, at least once each month, deposit all such fees collected with the state treasurer and make a detailed report covering same to the state controller, and such moneys shall be credited to the appropriation for the support of the pure food and drug laboratory; provided, however, that nothing in this act contained shall apply to cold storage or cold storage or refrigerating plants or warehouses as herein defined which are maintained or operated by restaurants, hotels, or exclusively retail establishments not storing articles of food for other persons. [Amendment approved April 20, 1917; Stats. 1917, p. 152.]

§ 7. Dates of receipt and withdrawal marked on articles. All articles of food when deposited in cold storage shall be marked plainly on the containers in which they are packed or on the individual article with the date of receipt, in accordance with such rules and forms as may be

prescribed by the state board of health, under the authority hereinafter conferred; and when removed from cold storage shall be marked in like manner with the date of withdrawal. [Amendment approved April 20, 1917; Stats. 1917, p. 153.]

TITLE 126.

CORPORATIONS.

Act 755.

An act relating to corporations and to the issue of shares by them without a nominal or par value.

[Approved May 29, 1917. Stats. 1917, p. 1321. In effect July 28, 1917.]

§ 1. Issuance of shares without nominal or par value. Equal to other shares. Any corporation having a capital stock may provide in its articles of incorporation for the issuance of the shares of stock of such corporation, other than preferred stock having a preference as to principal, without any nominal or par value by stating in such articles:

(1) The number of shares that may be issued by the corporation and, if any of said shares be preferred stock, the amount of each class having a preference and the particular character of such preferences, and if such preferred stock or any part thereof shall have a preference as to principal, the par value of each share thereof, which shall be one dollar or some multiple thereof not exceeding one hundred dollars.

(2) The amount of capital with which the corporation will carry on business, which amount, if any portion of the shares shall be preferred stock having a preference as to principal, shall be a sum equal to the product obtained by multiplying the par value of such preferred shares by the whole number of shares that may be issued by the corporation, but which otherwise shall be equal to the product obtained by multiplying one dollar, or some multiple thereof not exceeding one hundred dollars, by the whole number of shares that may be issued by the corporation.

Such statements in the articles shall be in lieu of any statements prescribed by section two hundred ninety of the Civil Code of the state of California as to the amount of its capital stock, the number of shares into which it is divided and the par value thereof. No distinction shall exist between any shares or classes of shares either as to voting power or as to the statutory or constitutional liability of the holders thereof to the creditors of the corporation, and each share of stock without nominal or par value shall be equal in every other respect to every other share authorized to be issued, subject only to the preferences granted to the preferred stock, if any, as stated in such articles. Certificates for shares without nominal or par value shall not have printed or otherwise expressed thereon any nominal or par value of such shares. Such corporation may issue and may sell its authorized shares from time to time for such consideration as may be prescribed in the articles of incorporation,

and any shares sold or issued for such consideration shall be deemed, when such consideration shall have been paid or delivered to the corporation, to be fully paid.

§ 2. **Capital fully paid. Liability of directors. Capital reduced by dividends.** No corporation authorized to issue shares in accordance with section one hereof shall begin to carry on business or shall incur any debts until the amount of capital stated in its articles of incorporation shall have been fully paid in money or in property taken at its actual value. If the amount of capital stated in its articles of incorporation shall at any time be increased, such corporation shall not increase the amount of its indebtedness then existing until it shall have received in money or property taken at its actual value the amount of such increase of its stated capital. The directors of any corporation assenting to the creation of any debt in violation of this section shall be liable jointly and severally for such debt. Any director who, because of any such liability under this section, shall pay any debt of the corporation shall be subrogated to all rights of the creditor in respect thereof against the corporation and its property, and also shall be entitled to contribution from all other directors of the corporation similarly liable for the same debt and the personal representative of any such director who shall have died before making such contribution.

No such corporation shall declare any dividend which shall reduce the amount or actual value of its capital below the amount stated in the articles as the amount of capital with which the corporation will carry on business. If any such dividend shall be declared, the directors under whose administration the same may have happened (except those who may have cause their dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen) are, in their individual or private capacity, jointly and severally liable to the corporation and to the creditors thereof to the full amount of any loss sustained by such corporation or by its creditors respectively by reason of such dividend.

§ 3. **Aggregate amount of capital stock. Par value.** For the purpose of any rule of law or of any statutory provision relating to the amount of the capital stock of the corporation or to the amount or par value of its shares, the aggregate amount of the capital stock of any such corporation formed pursuant to this act shall be deemed to be the aggregate amount of capital specified in the articles of incorporation, or in any certificate of increase or decrease made pursuant to the provisions of section three hundred fifty-nine of the Civil Code, as the amount of capital with which the corporation will carry on business; the amount or the par value of each share of preferred stock having a preference as to principal shall be deemed to be the amount or par value thereof as stated in the articles of incorporation, and the amount or par value of each other share shall be deemed to be an aliquot part of the aggregate capital so stated in such articles or in such certificate of increase or de-

crease, in excess of the specified amount (if any) of the preferred stock therein authorized to be issued with a preference as to principal.

ACT 755a.

An act to provide for and regulate the issuance of stock without nominal or par value by public utility corporations now existing or hereafter organized.

[Approved May 31, 1917. Stats. 1917, p. 1367. In effect July 30, 1917.]

§ 1. Issuance of shares without nominal or par value by public utility corporation. Any public utility corporation as defined in the "public utilities act" hereafter organized may, if so provided in its articles of incorporation, issue shares of stock without nominal or par value. Such articles of incorporation shall set forth, in lieu of setting forth the amount of its capital stock and the par value thereof, the number of shares into which its capital stock is divided, and shall state that all such shares are without nominal or par value; or such articles of incorporation shall set forth, in addition to setting forth the amount of its capital stock and the par value thereof, a provision for the conversion or exchange of shares having a nominal or par value at any time outstanding for shares without nominal or par value. In all other respects such articles shall set forth the matters and things specified in section two hundred ninety of the Civil Code. Any such corporation may, in common with other corporations formed for profit, by its articles of incorporation provide for the classification of its shares of capital stock into preferred and common shares.

§ 2. Resolution to issue shares. Ratification by stockholders. Amended articles of incorporation. Any public utility corporation now or hereafter organized which shall not be authorized by its articles of incorporation to issue shares of stock without nominal or par value, but which desires to issue shares without nominal or par value, may do so by a resolution of its board of directors, passed and adopted at any regular or special meeting, and ratified by the vote of stockholders representing at least two-thirds of its subscribed or issued capital stock at a meeting called for that purpose, or by the written assent of stockholders representing at least two-thirds of its subscribed or issued capital stock filed with the secretary. Such resolution shall specify that such corporation proposes to divide its capital stock into shares without nominal or par value and to issue such shares of stock then outstanding; such resolution shall also set forth the number of shares into which its capital stock shall be divided, how many of said shares, if any, shall be preferred shares, the terms of preference of any preferred shares, and the basis of exchange of such shares for the shares of stock then outstanding; provided, however, that no such resolution shall be valid which sets forth a basis of exchange which, if carried out, would give to the holders of any class of outstanding stock shares evidencing a less proportionate interest in the capital stock or earnings of the corporation than the outstanding

shares of stock held by them, unless such resolution is ratified by the unanimous vote or written assent of the holders of all the outstanding stock of the class prejudicially affected, but with such ratification such resolution shall be valid. Upon the ratification of such resolution by the stockholders by vote or written assent as aforesaid, the board of directors of said corporation shall, without further assent or vote of the stockholders, cause to be prepared amended articles of incorporation setting forth the number of shares into which its capital stock is divided and the fact that such shares are without nominal or par value, the number of shares, if any, to which preference is granted, and the nature and extent of such preference. Such amended articles, certified to as correct by the president and secretary and a majority of the directors under the seal of said corporation shall be filed in the office of the county clerk of the county in which the original articles of incorporation were filed, and a copy of such amended articles of incorporation certified by such county clerk, shall be filed in the office of the secretary of state. A copy of such amended articles, certified by the secretary of state, shall be filed in the office of the county clerk of every county in which such corporation has or holds real property, except only the county in which the original articles were filed. From and after the filing of such certified copy of such amended articles of incorporation in the office of the secretary of state, all outstanding shares of capital stock shall be deemed shares without nominal or par value. Upon the surrender of all or any certificates representing such outstanding shares, the corporation shall issue to the holder or holders thereof a certificate or certificates representing the number and kind of shares without nominal or par value to which such holder or holders may be entitled, but whether or not such surrender is made, all outstanding shares shall, for all purposes, be regarded as representing the number and kind of shares without nominal or par value to which the holder or holders thereof may be entitled.

§ 3. **Outstanding shares with par value.** No such corporation shall at any time have outstanding shares of stock having a nominal or par value and at the same time have outstanding shares of stock without nominal or par value.

§ 4. **When shares deemed to be of par value.** For the purpose of determining the amount of money payable to the secretary of state for filing articles of incorporation, and for the purpose of determining the vote of the stockholders upon the question of the increase of the stock or bonded indebtedness of such corporation, but for no other purpose, such shares shall be deemed to be of the par value of one hundred dollars each. The words "capital stock" and "amount of capital stock" as used in existing laws shall, for the purpose of making such laws applicable to corporations having stock without nominal or par value, be construed in the case of such corporations to mean the aggregate number of shares of stock without nominal or par value. Except as in this act otherwise provided, all provisions of law relating to stock having a par

value, so far as the same may be legally, necessarily or practically applicable, shall apply to and govern stock without nominal or par value.

§ 5. **Consent of railroad commission.** No public utility as defined in the public utilities act may issue any share of stock without nominal or par value, nor shall any share of stock or any stock certificate outstanding be converted into or deemed to be converted into stock without nominal or par value, without the consent of the railroad commission first having been secured in accordance with the provisions of the public utilities act, and the jurisdiction of the railroad commission with reference to such issue and such conversion of stock shall be in all respects the same as that defined in the public utilities act with reference to the issue by public utilities of stock or stock certificates, and nothing in this act shall be construed to in any way limit the jurisdiction of the railroad commission under the public utilities act over the issue of stock and stock certificates.

ACT 756.

An act prescribing terms and conditions upon which corporations may transact business in this state and providing penalties and forfeitures for noncompliance.

[Approved May 10, 1915. Stats. 1915, p. 422.]

The entire act was amended in 1917 (Stats. 1917, p. 371), to read as follows:

§ 1. **Corporations must file articles of incorporation. Certified copy filed with county clerk. Affidavit. Fee. Foreign corporations must file amendments, etc. Affidavit showing capital stock. Representatives of foreign corporations. Benefit of law.** Every corporation organized under the laws of another state, territory, or of a foreign country, which is now doing interstate or intrastate business in this state or maintaining an office herein, and which has not filed with the secretary of state prior to the day on which this act takes effect the document or documents required by this section, or which shall hereafter do such business in this state or maintain an office herein, or which shall enter this state for the purpose of doing such business herein, must file in the office of the secretary of state of the state of California a certified copy of its articles of incorporation, or of its charter, or of the statute or statutes, or legislative, or executive, or governmental act or acts creating it, in cases where it has been created by charter, or statute, or legislative, or executive, or governmental act, duly certified by the secretary of state or other officer authorized by the law of the jurisdiction under which such corporation is formed to certify such copy, and must also file a certified copy thereof, duly certified by the secretary of state of this state in the office of the county clerk of the county where its principal place of business in this state is located, and also where such corporation owns any real property. With such certified copy of its articles of incorporation, charter, or legislative, executive or governmental act creating it, such corporation shall also file with the secretary of state

an affidavit sworn to by the president or secretary of such corporation which shall state the amount of such corporation's authorized capital stock at or within fifteen days prior to such filing. Every such corporation shall pay to the secretary of state for filing in his office such certified copy of its articles of incorporation, or of its charter, or of the statute or statutes, or legislative, or executive, or governmental act or acts creating it, a fee of seventy-five dollars; provided, that foreign corporations organized for educational, religious, scientific or charitable purposes and having no capital stock, and foreign nonprofit corporations shall pay a fee of five dollars for filing the document or documents hereinabove required.

Foreign corporations shall also file any amendment of or change in any of the provisions of its original articles of incorporation, or charter, or of the statute or legislative, executive or governmental act or acts creating it. Every foreign corporation subject to the tax hereinafter provided shall file with the secretary of state, at the time it tenders payment of said tax and any penalty which has accrued, an affidavit sworn to by its president or secretary, showing the amount of its authorized capital stock on the first day of January of the year in which said payment is made, and in the event that such authorized capital stock, as shown by such affidavit, differs from the amount of such capital stock as appears from the records of the secretary of state, then the tax hereinafter provided shall be measured by the amount of the capital stock shown in such affidavit. The license hereinafter required shall not be issued nor shall the amount so tendered be accepted until copies of any documents relating to such change in authorized capital stock, certified as required by this section, shall have been filed with the secretary of state.

Every foreign corporation shall file with the secretary of state a designation of some person residing within this state upon whom process issued by authority of law may be served as the representative, for such purpose, of such corporation. A copy of such designation certified by the secretary of state is sufficient evidence of the appointment of such representative. Such process may be served on the person so designated, or, in the event that no such representative is designated, then on the secretary of state, and such service shall be a valid and binding service on such corporation.

Every corporation which complies with the provisions of this section is thereafter entitled to the benefit of the laws of this state limiting the time for the commencement of civil actions, but any corporation created by or under the laws of any foreign state or country and that has not complied with this section is not entitled to the benefit thereof, nor can any such foreign corporation maintain or defend any action or proceeding concerning its property in this state or any intrastate business or transaction, in any court of this state or acquire or convey any legal title to any real property within this state. In any action or proceeding instituted against any body styled as a corporation, but not created by nor under the laws of this state, evidence that such body has acted as a corporation, or employed methods usually employed by corporations,

must be received by the court for the purpose of proving the existence of such corporation, the sufficiency of such evidence to be determined by the court with like effect as in other cases. Every corporation which has complied with the law requiring it to make and file a designation of the person upon whom process against it may be served, need not make or file any further designation. Any designation made may be revoked by the filing by the corporation with the secretary of state of a writing stating such revocation. Within forty days after the death or removal from the state of any person designated by the corporation, or after the revocation of the designation, the corporation must make a new designation, or be subject to the provisions and penalties of this section; provided, however, that any foreign corporation which, prior to the eighth day of March, one thousand nine hundred one, shall have complied with the provisions of the act entitled, "An act to amend 'An act in relation to foreign corporations,' approved April first, one thousand eight hundred seventy-two," approved March seventeenth, one thousand eight hundred ninety-nine, shall, in lieu of the provisions of this section above set forth, file the affidavit and designation of representative herein required and the license tax due from such corporation shall be measured by the authorized capital stock, as shown thereby.

§ 2. **Fees.** Upon filing in the office of the secretary of state the certified copy of articles of incorporation of corporations organized under the laws of this state, there shall be paid to the secretary of state the fees prescribed therefor by section four hundred nine of the Political Code.

§ 3. **Annual license. Tax. Determination of tax. Tax on corporations having no capital stock.** Except those corporations hereinafter specified, every corporation incorporated under the laws of this state, and every corporation incorporated under the laws of any other state, territory, or foreign country now doing intrastate business within this state, or which shall hereafter engage in intrastate business in this state, shall procure annually from the secretary of state a license authorizing the transaction of such business in this state, and pay therefor the license tax prescribed herein.

For the purpose of measuring said tax the secretary of state shall examine all articles of incorporation and all documents on file in his office relating to an increase or decrease in the authorized capital stock of corporations which are subject to said tax, and determine the amount due from each corporation by the following rule:

When the authorized capital stock of the corporation does not exceed ten thousand dollars, the tax shall be ten dollars; when the authorized capital stock exceeds ten thousand dollars, but does not exceed twenty thousand dollars, the tax shall be fifteen dollars; when the authorized capital stock exceeds twenty thousand dollars but does not exceed fifty thousand dollars, the tax shall be twenty dollars; when the authorized capital stock exceeds fifty thousand dollars but does not exceed one hundred thousand dollars, the tax shall be twenty-five dollars; when the authorized capital stock exceeds one hundred thousand dollars but does

not exceed two hundred fifty thousand dollars, the tax shall be fifty dollars; when the authorized capital stock exceeds two hundred fifty thousand dollars but does not exceed five hundred thousand dollars, the tax shall be seventy-five dollars; when the authorized capital stock exceeds five hundred thousand dollars but does not exceed one million dollars, the tax shall be one hundred dollars; when the authorized capital stock exceeds one million dollars but does not exceed three million dollars, the tax shall be two hundred dollars; when the authorized capital stock exceeds three million dollars but does not exceed five million dollars, the tax shall be three hundred fifty dollars; when the authorized capital stock exceeds five million dollars but does not exceed seven million five hundred thousand dollars, the tax shall be five hundred fifty dollars; when the authorized capital stock exceeds seven million five hundred thousand dollars but does not exceed ten million dollars, the tax shall be eight hundred dollars; when the authorized capital stock exceeds ten million dollars, the tax shall be one thousand dollars; when the capital stock of any corporation has no par value the tax shall be one hundred dollars; when part of the capital stock of any corporation has a par value and a part of such stock has no par value, the tax shall be computed upon such par value stock in accordance with the admeasurement schedule herein established, to which sum shall be added the sum of fifty dollars. Building and loan companies and associations shall pay an annual license tax of ten dollars.

All corporations having no capital stock, but organized for profit, shall pay an annual tax of ten dollars. Said license tax shall be due and payable to the secretary of state on the first day of January of each and every year. Such license tax shall be paid on or before the hour of six o'clock P. M. of the first Monday of February of each year and if not so paid shall at said hour become delinquent and there shall thereupon be added thereto as a penalty for such delinquency the sum of ten dollars.

§ 4. **Tax authorizes transaction of business.** The license hereby provided authorizes the domestic corporations holding the same to transact business in this state, and authorizes foreign corporations to transact intrastate business in this state, during the year or any fractional part of such year for which such license is issued. "Year" within the meaning of this act, means from and including the first day of January to and including the thirty-first day of December next thereafter.

§ 5. **License tax for part of year.** At the time any corporation subject to the license tax provided herein shall file certified copy of articles of incorporation, or charter, or statute or statutes, or legislative, or executive or governmental act or acts creating a corporation, when filed between the first day of January and the thirty-first day of December, inclusive, in any year, there shall be paid to the secretary of state, in addition to all other fees required by law, that proportion of the license tax specified in section three of this act which the unexpired number of months of such year bears to the entire year including the month in which such filing occurs, and thereupon the secretary of state shall issue a license for such fractional part of the then current year.

§ 6. Corporations exempt. Corporations organized and conducted solely and exclusively for educational, religious, scientific or charitable purposes, corporations which are not organized or conducted for profit, corporations organized under the laws of any other state, territory or foreign country doing solely and exclusively an interstate or foreign business, and those corporations taxed under subdivisions (a), (b) and (c) of section fourteen of article thirteen of the constitution, are exempt from payment of the tax provided by section three of this act.

§ 7. "Corporation license tax exemption board." Protest. Contents. Corporations excepted. The secretary of state, state controller and members of the state board of control shall be and are hereby constituted the "corporation license tax exemption board." Except in cases where articles of incorporation are filed in the month of December, every corporation claiming exemption from the payment of the annual license tax prescribed by this statute must file with said board, at least thirty days before such license tax becomes due and payable, a written protest in which shall be set forth all facts and reasons upon which such exemption claim is made. Such protest shall contain a concise statement of the nature, character and manner of doing business by such corporation, together with any other data illustrating the method of doing such business and the places in which such business is transacted within this state. Such corporation shall furnish to said board such other or additional information as may be required by said board. Such application shall be sworn to by the president, secretary or general manager, or authorized agent of such corporation. Failure to protest in the manner and within the time herein prescribed shall constitute a waiver of all rights of exemption from said tax; provided, however, that the corporation license tax exemption board shall have the power, irrespective of such protests to grant such exemption in the case of corporations mentioned in section six of this act.

The provisions of this section with respect to filing written claim of exemption, shall not apply to educational, religious, scientific or charitable corporations, specified in section six of this act nor to corporations taxed under subdivisions (a), (b) and (c) of section fourteen, article thirteen of the constitution of this state.

§ 8. Tax exemption determined before filing articles of incorporation. Before filing a certified copy of the articles of incorporation of any domestic corporation in the office of the secretary of state, and before any foreign corporation files with the secretary of state the document or documents required by section one of this act, said articles of incorporation or said documents shall be submitted to said corporation license tax exemption board, which board shall determine the question of whether such corporation is exempt, under any of the provisions of this act, from the license tax imposed hereby.

All claims or applications for exemption, under this and the preceding section together with all evidence and proofs submitted therewith, shall be considered by such license tax exemption board, which shall determine the question of such exemption. The determining of such corporation license tax exemption board upon all questions of fact, with respect to such claims of exemption, shall be final and conclusive.

§ 9. **Notice of time when tax payable. Notice of delinquency. Notice of suspension or forfeiture.** On or before the first day of December of each year the secretary of state shall mail a notice to every corporation subject to the tax imposed by this act, notifying such corporations of the time when such tax shall be due and payable, when delinquent, and of the penalties for delinquency and nonpayment. Immediately after the first Monday in February of each year the secretary of state shall mail a notice to every corporation subject to the tax imposed by this act and which has failed to pay the same, notifying such corporation of its delinquency and the penalties therefor. Within ten days after the Saturday preceding the first Monday in March of each year the secretary of state shall, by registered mail, notify every corporation subject to the tax imposed by this act and which has failed to pay the same, that such corporation has been recorded by him as a "suspended" or "forfeited" corporation in accordance with the provisions of this act, and that such suspension or forfeiture may be removed by complying with the provisions of this act. Mailing by the secretary of state to any corporation of any of the notices required by this section shall not be a jurisdictional prerequisite to the accrual of any forfeiture provided by this act, or to the suspension of the corporate powers of any delinquent corporation and the officers thereof hereinafter provided, nor be held to be an essential prerequisite to the imposition of such or any other penalties for delinquency and nonpayment.

§ 10. **License tax lien.** The license tax due from any corporation subject to the provisions of this act is a lien upon the real property of such corporation from and after the first day of January of each year and until paid or until the property is sold for the payment thereof. On or before the first Monday in April of each year the secretary of state shall make a list of all corporations subject to the tax imposed by or that should have been paid under this act and which have failed to pay the same, and transmit a certified copy thereof to each county clerk and county recorder in this state. Said county clerks and county recorders shall file such certified copies in their respective offices in such manner that the same shall be preserved in the form of a permanent record of such office and easily identified by and available to the public. Said copies so certified by the secretary of state and filed as herein provided shall, in the case of each corporation, state whether such corporation is a domestic or foreign corporation and specify the tax and penalties which each corporation has incurred for failure to pay the tax imposed by this act. Such certified copies so filed with either of said county officers, or any copy thereof certified by the secretary of state, shall be received in evidence in any court in lieu of the original record on file with the secretary of state and shall be prima facie evidence of the truth of all statements contained therein.

§ 11. **Rights of domestic corporations suspended. Right of foreign corporations forfeited. Forfeiture relieved.** After six o'clock P. M. of the Saturday preceding the first Monday in March in any year, the corporate rights, privileges and powers of every domestic corporation which has failed to pay the tax and money penalty for nonpayment thereof imposed by this act shall, from and after said hour of said day, be sus-

pended, and incapable of being exercised for any purpose or in any manner, except to execute and deliver deeds to real property in pursuance of contracts therefor made prior to such time, and to defend in court any action brought against such corporation, until said tax with all accrued penalties, taxes and charges due to the state under this act and subdivision (d) of section fourteen, article thirteen of the constitution are paid as hereinafter provided. The right and privilege of every foreign corporation, subject to the provisions of this act, to transact intrastate business in this state shall, for failure to pay the tax and money penalty for nonpayment thereof imposed by this act, be forfeited at said hour of said day, and the secretary of state shall make a record of such forfeiture. In the case of foreign corporations such forfeiture may be relieved and the corporation's privilege to transact intrastate business in this state restored in the manner hereinafter provided. After said hour of said day and until such taxes, penalties and charges are paid, every person who attempts or purports to exercise any of the rights, privileges or powers of any delinquent domestic corporation except as permitted by this act, or, who transacts or attempts to transact any intrastate business in this state in behalf of any forfeited foreign corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days or more than five hundred days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business was had or occurred. Every contract made in violation of this section is hereby declared to be void.

§ 12. Application by stockholder or creditor to restore rights. Payment of additional amount. Contractor's certificate. All corporate powers, rights and privileges, suspended or forfeited under the provisions of this act may be revived and restored to full force and effect upon application therefor by any stockholder or creditor thereof and upon payment of all accrued taxes and penalties due to the state under this act and subdivision (d) of section fourteen, article thirteen of the constitution. In case the application for such revivor and restoration is not made during the year in which such suspension or forfeiture occurred, such application shall not be granted nor a certificate of revivor issued to such corporation until there is paid to the secretary of state in addition to the tax and money penalty due or that should have been paid the state under this act and subdivision (d) of section fourteen, article thirteen of the constitution for the year in which such suspension or forfeiture occurred, a sum of money, equal to the tax, without penalty, imposed or that should have been paid under this act during the year in which such suspension or forfeiture occurred, for each year succeeding said year in which such suspension or forfeiture occurred. Upon payment of all such taxes and penalties, and upon payment of all other taxes due the state under subdivision (d) of section fourteen, article thirteen of the constitution, the state controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate, when recorded in the office of any county recorder shall constitute

a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such controller's certificates recorded by him. Upon presentation of such controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the controller or secretary of state that subsequent to the date of such certificate of revivor the powers of said corporation have been again suspended or its right to do intrastate business again forfeited.

§ 13. **No dissolution until tax paid.** No court shall have jurisdiction to make or enter any decree of dissolution of any domestic corporation until all taxes and penalties due under this act shall have been paid.

§ 14. **Restoration of right under acts of 1905 and 1915. Use of new name.** Any corporation which has heretofore failed to pay any license tax and penalty imposed under the provisions of chapter three hundred eighty-six, Statutes 1905, and amendments thereof, or under chapter one hundred ninety, Statutes 1915, and for such nonpayment suffered a forfeiture of the charter of such corporation or of the right to do business in this state, may be relieved of such forfeiture, or may be restored to its right to do business in this state, upon making application therefor in writing and paying the license tax and penalties prescribed by said act, for nonpayment of which such forfeiture occurred. Application for restoration under the provisions of this section shall be made in writing, shall be signed by four-fifths of the surviving trustees or directors of said corporation, duly verified by said trustees or directors and filed with the state controller. Upon payment of the moneys due this state under the provisions of said act for the one year in which such forfeiture occurred, together with any tax levied in such year under subdivision (d) of section fourteen, article thirteen of the constitution by the state board of equalization, and the license tax due under the provisions of this act, the state controller shall issue a certificate of revivor to such corporation, and thereupon such corporation is revived and its powers restored to full force and effect.

The revivor of a corporation, under the provisions of this section, shall be without prejudice to any action or proceeding, defense or right, which has occurred by reason of the original forfeiture.

In case the name of any corporation which has suffered the forfeiture prescribed by either of said acts first in this section above mentioned, has been adopted by any other corporation since the date of said forfeiture, or in case any corporation has adopted subsequent to such forfeiture any name so closely resembling the name of such reviving corporation as will tend to deceive, then such reviving corporation shall be entitled to a certificate of revivor pursuant to the terms of this section only upon the adoption by such corporation seeking revivor of a new name, and in such case nothing in this section contained shall be construed as permitting such reviving corporation to carry on any business

under its former name. Such reviving corporation shall have the right to use its former name or take such new name only upon filing an application therefor with the secretary of state, and upon the issuing of a certificate to such corporation by the secretary of state, setting forth the right of such corporation to take such new name or use its former name as the case may be. The secretary of state shall not issue any certificate permitting any corporation to take or use the name of any corporation heretofore organized in this state and which has not suffered a forfeiture under either of the acts in this section first above mentioned, or to take or use a name so closely resembling the name of any corporation heretofore organized in this state as will tend to deceive.

The provisions of title nine, part three of the Code of Civil Procedure, in so far as they conflict with this section of this act are not applicable to corporations seeking revivor under this act.

§ 15. **Surrender of right to engage in intrastate business.** Any foreign corporation may surrender its right to engage in intrastate business in this state by filing with the corporation license tax exemption board an affidavit, sworn to by the president of such corporation, which shall contain a concise statement of the nature, character and manner of doing any business of any kind that such corporation may therefter intend to transact in this state. Said corporation shall furnish such other or additional information as may be required by said board. Said board shall consider such application and the order of such board approving the same shall terminate the right of such corporation to transact intrastate business in this state. Any person transacting any intrastate business in this state in behalf of such corporation after approval of such application to surrender such privilege shall be guilty of a misdemeanor and punishable as provided in section eleven of this act.

§ 16. **False statement.** Any false statement contained in any of the affidavits herein required shall constitute perjury, and shall be punishable as such.

§ 17. **Moneys paid.** All moneys herein required to be paid shall, upon collection, be immediately paid into the state treasury.

§ 18. **Statutes unaffected.** Nothing in this act shall be construed as affecting or repealing any statute of this state respecting the assessment of franchises and levying of taxes thereon, as required by section fourteen, article thirteen of the constitution and chapter three hundred thirty-five of statutes of one thousand nine hundred eleven of this state and amendments thereof.

§ 19. **Title.** This act shall be known as the "corporation license act."

The amendatory act of 1917 also contained the following provision:

§ 2. **In effect.** This act, inasmuch as it provides for a tax levy, shall, under the provisions of section one of article four of the constitution, take effect immediately.

ACT 777.

An act defining industrial loan companies, providing for their incorporation, powers and supervision.

[Approved May 18, 1917. Stats. 1917, p. 658. In effect July 27, 1917.]

§ 1. **"Industrial loan company."** The term "industrial loan company" as used in this act means any corporation which in the regular course of its business loans money and issues its own choses in action under the provisions of this act.

§ 2. **Incorporation.** Corporations may be incorporated under and by virtue of this act in the same manner as corporations under and by virtue of chapter one of title one of part four, division first of the Civil Code, except as otherwise herein provided.

§ 3. **Capital stock. Shares. Capital stock paid.** The capital stock of any corporation incorporated under the provisions of this act shall not be less than twenty-five thousand dollars in any city having a population of twenty-five thousand inhabitants or more and less than fifty thousand; and shall not be less than fifty thousand dollars in any city having fifty thousand or more inhabitants, and less than one hundred thousand; and shall not be less than one hundred thousand dollars in any city having one hundred thousand or more inhabitants, according to the last official census. The capital stock of any such corporation shall be divided into shares of the par value of one hundred dollars each. Before the articles of incorporation of any corporation, incorporated under the provisions of this act, are filed, there must be paid in cash for the benefit of the corporation to a treasurer, elected by the subscribers, not less than twenty-five per cent of the amount of the capital stock; the balance of the capital stock shall be paid in cash to the corporation at the rate of not less than ten per cent per month, following the initial payment. No corporation organized hereunder shall create more than one class of stock.

§ 4. **Powers of corporation.** Every corporation under the provisions of this act shall have power:

First—To loan money on personal security, or otherwise, and to deduct interest therefor in advance at the rate of six per cent per annum, or less, and in addition, to receive and to require uniform weekly or monthly installments on its certificates of investment, purchased by the borrower simultaneously with the said loan transaction, or otherwise, and pledged with the corporation as security for the said loan, with or without an allowance of interest on such installments.

Second—To sell or negotiate choses in action for the payment of money at any time, either fixed or uncertain, and to receive payments therefor in installments or otherwise, with or without an allowance of interest upon such installments. Nothing herein contained shall be construed to authorize corporations hereunder to receive deposits or to issue certificates of deposit. The issuance of choses in action herein authorized shall be approved as to form by the commissioner of corporations and shall bear the indorsement on the face of the instrument "This is not a certificate of deposit."

Third—To charge for a loan, made pursuant to this section, one dollar for every fifty dollars, or fraction thereof loaned, for expenses, including any examination or investigation of the character and circumstances of the borrower, and the drawing and taking acknowledgment of any papers, or other expenses incurred in making the loan. No charge shall be collected unless a loan shall have been made, and in no case shall such charge exceed five dollars.

Fourth—To establish branch offices, or places of business, within the county in which its principal place of business is located, but not elsewhere.

In addition to the powers herein enumerated, every corporation, under the provisions of this act, shall have the general powers conferred upon corporations by chapter three, title one, part four, division first, of the Civil Code, except as herein otherwise provided.

§ 5. **Limitations on corporations.** No corporation under the provisions of this act shall:

(a) Hold at any one time the obligation or obligations of any person, firm or corporation, for more than two per cent of the amount of the capital and surplus of such industrial loan company.

(b) Make any loan, under the provisions of this act, for a longer period than one year from the date thereof.

(c) Deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as such depository by a vote of the majority of the directors or of the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated.

(d) Invest any of its funds, otherwise than as herein authorized, except in such investments as are by law legal investments for savings banks, or in the choses in action issued by any other corporation organized under this act.

(e) Have outstanding at any time its investment certificates in an aggregate sum in excess of ten times the aggregate amount of its paid up capital, exclusive of those hypothecated with the company issuing them.

§ 6. **Holding real estate.** Every corporation, under the provisions of this act, may purchase, hold and convey real estate for the following purposes, but for no other:

First—Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business.

Second—Such as it shall purchase at sale under judgments, decrees or mortgage foreclosures under securities held by it, but no such corporation shall bid at any such sale a larger amount than shall be necessary to satisfy its debt and costs.

Real estate shall be conveyed under the corporate seal of such corporation and the hand of its president or vice-president and manager or treasurer. No real estate acquired in the cases contemplated above shall be held for a longer period than five years. Parcels of such real estate not sold within said time may be purchased by any person wanting the same, upon the conditions and proceedings provided in section fifty-

four of "An act to define and regulate the business of banking," approved March 1, 1909.

§ 7. **Dividends.** The directors of every corporation, under the provisions of this act, may at certain times and in such manner as its by-laws prescribe, declare and pay dividends to the stockholders of such corporation, of so much of the net profits of the corporation as may be appropriated for that purpose under its by-laws, but before any such dividend is declared, not less than ten per cent of the net profits of such corporation for the preceding half year or for such period as is covered by the dividend, shall be carried to its surplus until such surplus shall amount to twenty-five per cent of the paid up capital stock.

§ 8. **Certificates of investment issued not creation of debt.** Issuing certificates of investment and the like in the transaction of the business of corporations under the provisions of this act shall not be construed to be the creation of debt within the meaning of the phrase "create debt" in section three hundred nine of the Civil Code nor of "indebtedness" within the meaning of the phrase "the capital stock cannot be diminished to an amount less than the indebtedness of the corporation" in section three hundred fifty-nine of the Civil Code, except that no company organized hereunder shall reduce its capital stock to an amount less than is required by this act to be maintained by such company or less than any indebtedness of such company other than such investment certificates.

§ 9. **Taxed.** Corporations, under the provisions of this act, shall be taxed the same as other general corporations.

§ 10. **Subject to investment companies act.** Corporations under the provisions of this act shall be subject to the provisions and regulations of "An act to define investment companies, investment brokers and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations and making an appropriation therefor," approved May twenty-eighth, nineteen hundred thirteen, and any additions or amendments thereto.

§ 11. **Order to discontinue violation of law. Order to discontinue unsafe practices. Suit to restrain enforcement. Commissioner of corporations may take possession of property.** If it shall appear to the commissioner of corporations that any company hereunder has violated or failed to comply with the provisions of its articles of incorporation, or any law of this state, or whenever it shall appear from the report of any company hereunder, or the commissioner shall have reason to conclude, that the capital of any company hereunder is impaired or reduced below the amount required by law, he may, by an order under his hand and official seal, addressed to such company, direct such company to discontinue such violation and to comply with the law, or to make good the deficiency or impairment of capital alleged by him to exist within sixty days after the date of such requisition; or

If it shall appear to the commissioner that such company is conducting business in an unsafe or injurious manner, he may, in like manner, direct the discontinuance of any such unsafe or injurious practices. Such orders shall require such company to show cause, before the commissioner, at a time and place to be fixed by him, why said order should not be observed. If upon such hearing it shall appear to the commissioner that such order should be made final he shall proceed to do so, and such company shall immediately comply with such order made by the commissioner of corporations.

Such company shall have ten days after any such order is made final in which suit may be commenced to restrain enforcement of such order and unless such action be so commenced and enforcement of such order be enjoined within ten days by the court in which such is suit is brought, then such company shall comply with such order.

Upon failure of any company to comply with such order or if such company shall refuse to submit its books, papers and concerns to the inspection or examination of the commissioner of corporations, or to any one authorized by him to make such examination, or if any officer of such company shall refuse to be examined upon oath touching the concerns of such company, or if any such company shall neglect or refuse to observe any order made by the commissioner of corporations pursuant to his supervision as authorized by this act, the commissioner of corporations may forthwith take possession of the property and business of such company and retain such possession until such company shall resume business or its affairs be finally liquidated. On taking possession of the property and business of any such company, the commissioner of corporations may proceed to liquidate the same in the manner provided by the bank act.

§ 12. **Powers of commissioner of corporations not affected.** Nothing in this act contained shall be deemed or construed as a limitation or restriction of or as in any way affecting the power or discretion of the commissioner of corporations, under the investment companies act or any other statute now or hereafter in effect, to issue a permit authorizing any corporation under the provisions of this act to issue and dispose of choses in action in such amounts and upon such terms and conditions as he may in such permit provide and to impose such conditions as he may deem necessary to the issue of such securities and to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit and from time to time for cause to amend, alter or revoke any permit issued by him or to refuse to issue such permit or otherwise authorize the issue of such securities.

TITLE 130.

COUNTIES.

ACT 806.

An act authorizing any county now or hereafter organized to incur indebtedness, issue negotiable bonds, levy taxes to pay the principal and interest thereof, acquire by condemnation or otherwise

land within the county, and, in, consideration of the benefits to be derived therefrom by such county, to convey the same to the United States, for a permanent mobilization, training and supply station for any or all such military purposes, including supply stations, the mobilization, disciplining and training of the United States army, state militia and other military organizations, as are now or may at any time be authorized or provided for under any law or laws of the United States; conferring on such counties the power of eminent domain for the purposes of this act and providing the procedure therefor; granting the consent of the state to such conveyance and ceding exclusive jurisdiction to the United States over the lands so conveyed.

[Approved May 25, 1917. Stats. 1917, p. 933. In effect July 27, 1917.]

§ 1. **Boards of supervisors may incur indebtedness to purchase land for United States mobilization stations.** Whenever the secretary of war of the United States shall agree, on behalf of the government of the United States, to establish in any county now or hereafter organized in this state, a permanent mobilization, training and supply station for any or all such military purposes as are now or may be then or thereafter authorized or provided by or under any law of the United States, on condition that land in such county aggregating approximately a designated number of acres at such location or locations within any such county as may have been or may thereafter be from time to time selected or approved by such secretary of war be conveyed to the United States with the consent of the state of California, for the consideration of the benefits to be derived by such county from the use of such lands by the United States for such purpose and the board of supervisors shall determine that it is desirable and for the general welfare and benefit of the people of such county and for the interest of the county to incur an indebtedness in an amount sufficient to acquire land in such county aggregating approximately the number of acres so designated, at such location or locations as may have been theretofore or may be thereafter selected or approved by such secretary of war, and, in consideration of the benefits to be derived therefrom by such county, to convey all such lands to the United States to be used by the United States for any or all such military purposes, as are now, or may be then or thereafter authorized or provided by or under any law of the United States, including permanent mobilization, training and supply stations, such county is hereby authorized and empowered by and through its board of supervisors to incur an indebtedness evidenced by negotiable bonds of such county for such purposes in any amount not exceeding, together with all existing bonded indebtedness of such county, five per cent of the taxable property of the county, as shown by the last equalized assessment book thereof, whenever two-thirds of the qualified electors of the county voting thereon shall assent thereto, at any election, either general or special, at which the proposal to incur such bonded indebtedness may be submitted to such electors in the manner provided by law.

§ 2. **Manner of incurring indebtedness. Not to exceed five per cent of taxable property. Question submitted to voters.** Such indebtedness

shall be incurred in the following manner, to wit: The board of supervisors of any such county shall by order specify (a) the purpose for which the indebtedness is to be incurred, which shall in general be, for acquiring land in such county aggregating approximately the number of acres designated in such agreement by such secretary of war to be conveyed for the consideration of the benefits to be derived by such county from the use of such lands by the United States for such purposes, to the United States for the purposes of a permanent mobilization, training and supply station, (b) the amount of bonds proposed to be issued, provided that such amount, together with all then existing bonded indebtedness of such county shall not exceed five per cent of the taxable property of the county as shown by the last equalized assessment-book thereof, exclusive of the taxable value of the land so proposed to be acquired and conveyed to the United States, (c) the rate of interest it is proposed such bonds shall bear, (d) the number of years, not exceeding forty, the whole or any part of said bonds are to run, and (e) such order shall further provide for submitting the question of the issuance of such bonds to the qualified electors of such county at the next general election, or at a special election to be called by the board for that purpose. The words to appear on the ballot shall be "Bonds—Yes" and "Bonds—No" or words of similar import, together with a general statement of the amount and purpose of the bonds to be issued, and which general statement shall include a statement that the purpose is to acquire and convey to the United States, for the consideration of the benefits to be derived by such county from the use of such lands by the United States, the amount of land set out in said order of the board of supervisors for the purpose of a permanent mobilization, training and supply station. If the question is submitted at a special election, notice thereof shall be given and the question submitted as provided in section four thousand eighty-eight of the Political Code of the State of California.

§ 3. **If two-thirds favor. Procedure.** If two-thirds of the qualified electors of the county voting thereon shall vote in favor of the issuing such bonds, the board must proceed to issue the amount of bonds specified. The board of supervisors in issuing and selling said bonds shall follow the procedure provided in said section four thousand eighty-eight of said Political Code as to other bonds of the county, and said bonds shall be in the form, of the denominations and specify the rate of interest as provided in said section and shall in all respects conform to the provisions of said section, and the payment thereof, both principal and interest, shall be provided for by a tax levy in the same manner as is provided in said section for the payment of the principal and interest of other bonds issued by any county, and said section, except as herein modified, is hereby specifically made applicable to all bonds at any time issued under the provisions of this act.

§ 4. **Right of eminent domain granted.** The acquisition of land for the establishment of a permanent mobilization, training and supply station for any and all such military purposes as are now or may be then or thereafter authorized or provided by or under any law of the United States is hereby declared to be a public use, and the right of eminent

domain is hereby granted and extended to every county availing itself of the provisions of this act for every purpose of condemnation, appropriation or disposition intended by this act and such county is hereby authorized and empowered to condemn and appropriate all lands and rights whatsoever necessary or convenient for carrying out the provisions of this act. Such right of eminent domain may be exercised on behalf of such public use in accordance with the provisions of title seven, part three of the Code of Civil Procedure of the state of California.

§ 5. **Consent to acquisition by United States. Consent to exercise of exclusive legislation.** Pursuant to the constitution and laws of the United States and especially to paragraph seventeen of section eight of article one of such constitution, the consent of the legislature of the state of California is hereby given to the United States to acquire, upon the conditions and for the purposes herein set forth, from any county acting under the provisions of this act, title to all lands herein intended to be referred to; such title to be evidenced by a deed or deeds of such county, signed by the chairman of its board of supervisors and attested by the clerk of such county, under seal and the consent of the state of California is hereby given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever over such tracts or parcels of land so conveyed to it; subject, however, to the right of the state to have concurrent jurisdiction so far that all process, civil or criminal, issued under authority of the state may be executed by the proper officers thereof within such tract, upon any person or persons amenable to the same in like manner and with like effect as if such conveyance had not been made. The board of supervisors shall have the power to insert in every conveyance made under the authority of this act, such conditions subsequent as such board shall deem necessary to insure the use of such lands by the United States government for the purposes herein mentioned and to carry out the provisions of this act.

TITLE 131.

COUNTY BOUNDARIES.

ACT 826a.

An act to definitely establish and permanently locate the boundary line between the counties of Mendocino and Sonoma, state of California. [Approved May 31, 1917. Stats. 1917, p. 1396. In effect July 30, 1917.]

ACT 826b.

An act to describe, establish and permanently locate the boundary line between the counties of Kern and San Bernardino. [Approved May 10, 1917. Stats. 1917, p. 301.]

ACT 826c.

An act to definitely establish and permanently locate a portion of the boundary line between the county of Lake and the county of Mendocino. [Approved June 1, 1917. Stats. 1917, p. 1635.]

TITLE 137.

CRIMINAL LAW.

ACT 863.

An act to create a state bureau of criminal identification, providing for the appointment of a director of said bureau, defining his duties, qualifications and powers, providing for the appointment of a clerk of said bureau, and fixing his qualifications fixing the compensation of said director and clerk, and providing for the manner of paying the same, and providing for the expense of conducting the office. [Approved March 20, 1905. Stats. 1905, p. 520.]

Repealed 1917; Stats. 1917, p. 1391. See next Act.

ACT 863a.

An act creating a state bureau of criminal identification and investigation, providing for its organization and defining its powers and duties and making an appropriation to carry out the provisions hereof, and repealing an act entitled "An act to create a state bureau of criminal identification, and providing for the appointment of a director of said bureau, defining his duties and qualifications and powers; providing for the appointment of a clerk of said bureau and fixing his qualifications; fixing compensation of said director and clerk, providing for the manner of paying the same and providing for the expense of conducting the office," approved March 20, 1905.

[Approved May 31, 1917. Stats. 1917, p. 1391. In effect July 30, 1917.]

§ 1. **State bureau of criminal identification and investigation created.** There is hereby created a state bureau of criminal identification and investigation.

§ 2. **Appointment and term of members.** Within ten days after this act goes into effect, it will be the duty of the governor to appoint a board of managers of said bureau, consisting of three members: One of whom shall be a chief of police of an incorporated city within the state of California, and one to be a duly elected, qualified and acting sheriff of a county within said state, and one to be a duly elected, qualified and acting district attorney of a county within said state; one member of said board shall be appointed to hold office for the term of two years, one member shall be appointed to hold office for the term of three years, and one member to be appointed to hold office for the term of four years, and thereafter, all appointments shall be for the full term of four years; provided, however, that should the term of any such member of the said board expire as such chief of police, or such sheriff, or such district attorney, he shall cease to be a member of the said board; and provided, further, that the governor shall fill all vacancies created in said board by the appointment of the same kind of an officer as was his predecessor.

§ 3. **Duties of board of managers. Superintendent.** It shall be the duty of said board of managers within ten days after its appointment to take absolute control and management of said bureau, to meet and

organize by choosing one of their number to be president, to make and adopt such rules as are necessary for proper conduct of their business as such board of managers, to provide for the appointment of a superintendent and such other employees as may be required; said appointments to be made by the said board of managers from an eligible list provided for such purpose by the civil service commission; also to provide equipment for said bureau, with necessary furniture, fixtures, apparatus, appurtenances, appliances and materials as are necessary for the collection, filing and preservation of all criminal records both as to identification and investigation of criminals, and stolen, lost, found, pledged or pawned property.

§ 4. **Photos, etc., of criminals.** It shall be the duty of said board of managers to procure and file for record and report in their office, as far as such can be procured, all plates, photos, outline pictures, descriptions, information and measurements of all persons who have been or shall hereafter be convicted of felony, or imprisoned for violating any of the military, naval, or criminal laws of the United States of America, and of all well known and habitual criminals from wherever procurable.

§ 5. **Information furnished.** It shall be the duty of said board of managers to file or cause to be filed all plates, photographs, outline pictures, measurements, information and description which shall be received by it by virtue of its office and it shall make a complete and systematic record and index of the same, providing thereby a method of convenience, consultation and comparison. It shall be the duty of said board of managers to furnish, upon application, all information pertaining to the identification of any person, or persons, a plate, photograph, outline picture, description, measurement, or any data of which person there is a record in its office. Such information shall be furnished to the United States officers or officers of other states or territories, or possession of the United States or peace officers of other countries duly authorized to receive the same, and all peace officers of the state of California, which application shall be in writing and accompanied by a certificate signed by the officer making such application, stating that the information applied for is necessary in the interest of the due administration of the laws, and not for the purpose of assisting a private citizen in carrying on his personal interests or in maliciously, or uselessly, harassing, degrading or humiliating any person or persons.

§ 6. **Systems of identification.** In this bureau may be used the following systems of identification: the Bertillon, the finger-print system and any system of measurement that may be adopted by law in the various penal institutions of the state. It shall be the duty of said board of managers to keep on file in its office a record consisting of duplicates of all measurements, processes, operations, signalletic cards, plates, photographs, outline pictures, measurements and descriptions of all persons confined in penal institutions of this state as far as possible, in accordance with whatever system or systems may be in vogue in this state.

§ 7. **Offices.** Suitable offices for the proper conduct of the bureau shall be provided for by the superintendent of capitol buildings and grounds.

§ 8. **Daily copies of finger prints furnished. Daily reports of property stolen.** It is hereby made the duty of the sheriffs of the several counties of the state of California, the chiefs of police of incorporated cities therein and marshals of incorporated cities and towns therein to furnish to the said bureau daily copies of finger-prints on standardized eight by eight inch cards, and descriptions of all such persons arrested who in the best judgment of such sheriffs, chiefs of police, or city marshals are persons wanted for serious crimes, or are fugitives from justice, or of all such persons in whose possession at the time of arrest are found goods or property reasonably believed by such sheriffs, chiefs of police or city marshals to have been stolen by them; or of all such persons in whose possession are found burglar outfits or burglar tools or burglar keys or who have in their possession high-power explosives reasonably believed to be used for unlawful purposes or who are in possession of infernal machines, bombs or other contrivances in whole or in part and reasonably believed by said sheriffs, chiefs of police and city marshals to be used for unlawful purposes, or of all persons who carry concealed firearms or other deadly weapons and reasonably believed to be carried for unlawful purposes, or who have in their possession inks, dye, paper or other articles necessary in the making of counterfeit bank notes, or in the alteration of bank notes; or dies, molds or other articles necessary in the making of counterfeit money, and reasonably believed to be used by them for such unlawful purposes. This section is by no means intended to include violators of city or county ordinances or of persons arrested for other trifling offenses. It is further made the duty of the aforesaid sheriffs, chiefs of police or city marshals to furnish said bureau daily reports of lost, stolen, found, pledged or pawned property received into their respective offices.

§ 9. **Record of reports.** In order to assist in the recovery of said property and in the arrest and prosecution of criminals, it is hereby made the duty of the said board of managers of said bureau to keep a complete record of all reports filed with the said bureau, of all personal property stolen, lost, found, pledged, or pawned in any city or county of this state.

§ 10. **File cards.** To provide for the installation of a proper system, and file, and cause to be filed therein cards containing an outline of the method of operation employed by criminals in the commission of crime.

§ 11. **Salaries.** The board of managers of this bureau shall serve without compensation; provided, however, that they shall receive their necessary traveling expenses while attending meetings of said board. The superintendent shall receive a salary of two thousand four hundred dollars per annum; the salaries of the other employees shall be fixed by the board of managers subject to the approval of the board of control. The superintendent and the other employees shall be paid in the same manner and out of the same fund as the state officers are paid.

§ 12. **Appropriation.** There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of thirty-six thousand dollars, or so much thereof as may be necessary, to be used by said board of managers in furnishing, equipping and maintaining the said bureau in accordance with the provisions of this act, and for the payment of the salaries herein provided for, for the fiscal year ending June thirtieth, one thousand nine hundred eighteen, and the fiscal year ending June thirtieth, one thousand nine hundred nineteen.

§ 13. **State controller directed to draw warrants.** The state controller is hereby directed to draw warrants in favor of the said board of managers at such times and such amounts as shall be approved by the state board of control, and the state treasurer is hereby directed to pay the same.

§ 14. **Furniture, equipment and records of bureau of criminal identification.** All furniture, equipment and records now on file and in use in the office of the "bureau of criminal identification of the state of California," shall become a part of the furniture, equipment and records of the "state bureau of criminal identification and investigation," immediately upon the organization of the board of managers as provided for in this act.

§ 15. **Stats 1905, p. 520, repealed.** An act entitled, "An act to create a state bureau of criminal identification, and providing for the appointment of a director of said bureau, defining his duties and qualifications and powers; providing for the appointment of a clerk of said bureau and fixing his qualifications; fixing compensation of said director and clerk, providing for the manner of paying the same and providing for the expense of conducting the office"; approved March 20, 1905, is hereby repealed and all other acts and parts of acts in conflict herewith are hereby repealed.

ACT 867.

An act creating an advisory pardon board; defining and prescribing the powers and duties thereof; and making an appropriation therefor.

[Approved May 17, 1915. Stats. 1915, p. 465.]

Amended 1917; Stats. 1917, p. 291.

The amendment of 1917 follows:

§ 1. **Advisory pardon board created. President pro tempore of senate serves when.** An advisory pardon board of and for the state of California is hereby created, which shall consist of the lieutenant-governor, who shall be chairman of said board, the attorney general, and the wardens of the two state prisons. Should the lieutenant-governor be absent or unable to perform the duties herein prescribed, the president pro tempore of the senate shall act in his place. The board shall have and exercise the powers and duties hereinafter set forth and specified. [Amendment approved May 8, 1917; Stats. 1917, p. 291.]

TITLE 141.

DEADLY WEAPONS.

ACT 889.

An act relating to and regulating the carrying, possession, sale or other disposition of firearms capable of being concealed upon the person; prohibiting the possession, carrying, manufacturing and sale of certain other dangerous weapons and the giving, transferring and disposition thereof to other persons within this state; providing for the registering of the sales of firearms; prohibiting the carrying or possession of concealed weapons in municipal corporations; providing for the destruction of certain dangerous weapons as nuisances and making a felony to use or attempt to use certain dangerous weapons against another.

[Approved May 4, 1917. Stats. 1917, p. 221. In effect July 27, 1917.]

§ 1. **Manufacture, etc., of certain dangerous weapons misdemeanor.** Every person who manufacturers or causes to be manufactured, or leases, or keeps for sale, or offers, or gives, or otherwise disposes of any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, or metal knuckles, a dirk or dagger, to any person within this state is guilty of a misdemeanor, and if he has been previously convicted of a crime made punishable by this section, he is guilty of a felony.

§ 2. **Possession of certain dangerous weapons misdemeanor.** Every person who possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, metal knuckles, bomb or bombshells, or who carries a dirk or a dagger, is guilty of a misdemeanor, and if he has been convicted previously of any felony or of a crime made punishable by this act, he is guilty of a felony.

§ 3. **Carrying firearms without license misdemeanor.** Every person who carries in any city, city and county, town or municipal corporation of this state any pistol, revolver, or other firearm concealed upon his person, without having a license to carry such firearm as hereinafter provided in section six of this act, shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony.

§ 4. **Unlawful possession of weapon etc., nuisance. Surrender of weapons, etc. Destruction of weapons, etc.** The unlawful possessing or carrying of any of the instruments, weapons or firearms enumerated in section one to section three inclusive of this act, by any person other than those authorized and empowered to carry or possess the same as hereinafter provided, is a nuisance, and such instruments, weapons or firearms are hereby declared to be nuisances, and when any of said articles shall be taken from the possession of any person the same shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, city and county, town or other municipal corporation the same shall be surrendered to the head of the police force,

or police department thereof. The officers to whom the same may be so surrendered, except upon certificate of a judge of a court of record, or of the district attorney of any county that the preservation thereof is necessary or proper to the ends of justice, shall proceed at such time or times as he deems proper, and at least once in each year to destroy or cause to be destroyed such instruments, weapons or other firearms in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which it was manufactured.

§ 5. **Attempted use of weapons felony.** Any person who attempts to use, or who with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any loaded pistol, revolver or other firearm, or any instrument or weapon commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, bomb, or bombshell or any other dangerous or deadly instrument or weapon, is guilty of a felony. The carrying or possession of any of the weapons specified in this section, by any person while committing, or attempting or threatening to commit a felony, or breach of the peace, or any act of violence against the person or property of another, shall be presumptive evidence of carrying or possessing such weapon with intent to use the same in violation of this section.

§ 6. **License to carry concealed firearm.** It shall be lawful for the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, city and county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry concealed a pistol, revolver or other firearm; provided, however, that the application to carry concealed such firearm shall be filed in writing and shall state the name and residence of the applicant, the nature of applicant's occupation, the business address of applicant, the nature of the weapon sought to be carried and the reason for the filing of the application to carry the same.

§ 7. **Register of sales of firearms. Duplicate sheet mailed to police. Violation misdemeanor. Form of register.** Every person in the business of selling, leasing or otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether such seller, leasor or transferrer is a retail dealer, pawnbroker or otherwise, except as hereinafter provided, shall keep a register in which shall be entered the time of sale, the date of sale, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, caliber or other marks of identification on such pistol, revolver or other firearm. Such register shall be prepared by and obtained from the state printer and shall be furnished by the state printer to said dealers on application at a cost of three dollars per one hundred leaves in duplicate and shall be in the form hereinafter provided. The purchaser of any firearm, capable of being concealed upon the person

shall sign, and the dealer shall require him to sign his name and affix his address to said register in duplicate and the salesman shall affix his signature in duplicate as a witness to the signature of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor. The duplicate sheet of such register shall on the evening of the day of sale, be placed in the mail, postage prepaid and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, city and county, town or other municipal corporation wherein the sale was made; provided, that where the sale is made in a district where there is no municipal police department, said duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made. A violation of any of the provisions of this section by any person engaged in the business of selling, leasing or otherwise transferring such firearms is a misdemeanor. This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, city and county, town or municipal corporation wherein they are situated. The register provided for in this act shall be substantially in the following form:

Series No. ——
Sheet No.——

Original.

Dealers' Record of Sale of Revolver or Pistol.

State of California.

Notice to dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in duplicate.

Carbon duplicate must be mailed on the evening of the day of sale, to head of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the municipal corporations wherein the sale is made, or to the county clerk of your county if the sale is made in a district where there is no municipal police department. Violation of this law is a misdemeanor. Use carbon paper for duplicate. Use indelible pencil.

Sold by ——. Salesman ——
City, town or township ——
Description of arm (state whether revolver or pistol) ——
Maker —— number —— caliber ——
Name of purchaser —— age —— years.
Permanent residence (state name of city, town or township, street and number of dwelling) ——
Height —— feet —— inches. Occupation ——
Color —— skin —— eyes —— hair ——
If traveling or in a locality temporarily, give local address ——
Signature of purchaser ——
(Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)
Witness ——, salesman.
(To be signed in duplicate.)

Series No. ——
Sheet No.——

Duplicate.

Dealers' Record of Sale of Revolver or Pistol.

State of California.

Notice to dealers: This carbon duplicate must be mailed on the evening of the day of sale as set forth in the original of this register page. Violation of this law is a misdemeanor.
Sold by ——. Salesman ——
City, town or township ——
Description of arm (state whether revolver or pistol) ——
Maker —— number —— caliber ——
Name of purchaser —— age —— years.
Permanent residence (state name of city, town or township, street and number of dwelling) ——
Height —— feet —— inches. Occupation ——
Color —— skin —— eyes —— hair ——
If traveling or in a locality temporarily, give local address ——
Signature of purchaser ——
(Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)
Witness ——, salesman.
(To be signed in duplicate.)

§ 8. **Exceptions.** Nothing in this act shall be construed to apply to sheriffs, constables, marshals, policemen or other duly appointed peace officers nor to any person summoned by any such officers to assist in making arrest or preserving the peace while said person so summoned is actually engaged in assisting such officer; nor to duly authorized military or civil organizations while parading nor to the members thereof when going to and from the places of meeting of their respective organizations; nor to the possession or transportation by any merchant of unloaded firearms as merchandise; nor to bona fide members of any club or organization now existing or hereinafter organized, for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this act upon or in such target ranges, or while going to and from such ranges.

§ 9. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 142.

DEAF, DUMB AND BLIND.

ACT 895b.

An act to authorize certain improvements upon the grounds of the California School for the Deaf and Blind at Berkeley, California.

[Approved May 17, 1917. Stats. 1917, p. 578. In effect July 27, 1917.]

§ 1. Fences on grounds of California School for Deaf and Blind. The directors of the California School for the Deaf and Blind are hereby authorized to remove the present fence on the grounds of said school, which extends thirty feet across the eastern terminus of Derby street, and also the fence which extends a distance of one hundred twenty-four and sixty-five one hundredths feet from said terminus along Tanglewood road, as said street and road are delineated upon a map entitled, "plat of Tanglewood road opening, Berkeley, California," filed in the office of the county recorder of Alameda county on the third day of April, one thousand nine hundred sixteen, and recorded in liber fourteen of maps, page twenty-five, and to replace said fence along a line described as follows:

Commencing at the point of intersection of the northerly line of Derby street and the easterly line of Belrose avenue extended northerly, as said street and avenue are delineated on said plat of Tanglewood road opening, Berkeley, California; thence easterly parallel to the southerly line of plot seventy-eight, as said plot is shown and designated upon Kellersberger's map of rancho of Vicente and Domingo Peralta, and filed in the office of the county recorder of Alameda county, a distance of eighteen and five-tenths feet; thence along a circular arc of two hundred two and ninety-four one hundredths feet radius easterly and southerly to its intersection with the said southerly line of plot seventy-eight at a point distant therein easterly one hundred twenty-four and sixty-five one-hundredths feet from the intersection of the easterly line of Belrose avenue and the said southerly line of plot seventy-eight, in order that the following described triangular piece of land may be used as a public highway:

Beginning at the intersection of the eastern line of Belrose avenue with the dividing line between plot seventy-seven and plot seventy-eight as shown upon said Kellersberger's map of rancho of Vicente and Domingo Peralta, and running thence northerly along the said eastern line of Belrose avenue thirty-feet; thence easterly parallel to the southern line of said plot seventy-eight, a distance of eighteen and five-tenths feet; thence along a circular arc of two hundred two and ninety-four one-hundredths feet radius easterly and southerly to its intersection with the said southern line of plot seventy-eight at a point distant therein easterly one hundred twenty-four and sixty-five one hundredths feet from the point of beginning; thence westerly in a straight line to the point of beginning; being a portion of said plot seventy-eight and containing six-hundredths acre, more or less.

TITLE 159.
DRAINAGE.

ACT 976.

An act validating the formation and organization, and determining the boundaries of drainage improvement district number one of the county of Merced, state of California.

[Approved January 29, 1917. Stats. 1917, p. 3. In effect immediately.]

§ 1. **Drainage improvement district No. 1, Merced county, validated.** Drainage improvement district number one of the county of Merced, state of California, as formed and organized by the board of supervisors of said Merced county, and as now existing, is hereby recognized and declared valid, and all proceedings on the formation and organization thereof are hereby approved, ratified and declared valid.

§ 2. **Boundaries.** The boundaries of said district, as fixed by the board of supervisors of said Merced county are hereby approved and declared to be as follows:

Commencing at the northeast corner of section two, township seven south, range eleven east, Mount Diablo base and meridian, thence, following section lines, south three miles to the southeast corner of section fourteen, of said township and range; thence, following section lines, west two miles, to the southwest corner of section fifteen, said township and range; thence, following section line, north one mile to the northwest corner of said section fifteen; thence east three-eighths mile; thence north one-half mile; thence east three-sixteenths mile; thence north one-quarter mile; thence east seven-sixteenths mile; thence north one-quarter mile to the northeast corner of section ten, said township and range; thence, following section line, north seven-eights mile to a point on the continuation easterly of the southerly line of lot one of the San Joaquin-Eucalyptus Company's subdivision; thence westerly along lot lines to the southwest corner of lot four of said subdivision; thence northerly along lot line and the continuation thereof to the north line of section three, said township and range; thence following section lines east and one-eighth miles, more or less, to the point of commencement.

§ 3. **Urgency measure.** Inasmuch as there are in said districts bodies of stagnant water in close proximity to communities, neighborhoods and a large number of residences; and inasmuch as said bodies of stagnant water are injurious to the health of the said residents, and of the inhabitants of said communities and neighborhoods, and for the preservation of the safety and health of the public, must be drained; and inasmuch as this act is necessary to provide ample power for the drainage of said bodies of stagnant water, it is hereby determined and declared that this act, and each and all of the provisions thereof, constitute and is an urgency measure necessary for the immediate preservation of the public safety and health within the meaning of section one of article four of the constitution and shall take effect and be in full force immediately from and after its passage.

ACT 976a.

An act validating the formation and organization, and determining the boundaries of drainage improvement district number two of the county of Merced, state of California.

[Approved January 29, 1917. Stats. 1917, p. 4.]

§ 1. Drainage improvement district No. 2, Merced county, validated. Drainage improvement district number two of the county of Merced, state of California, as formed and organized by the board of supervisors of said county of Merced, and as now existing, is hereby recognized and declared valid, and all proceedings on the formation and organization thereof are hereby approved and declared valid.

§ 2. Boundaries. The boundaries of said district, as fixed by the board of supervisors of said Merced county are hereby approved and declared to be as follows:

Commencing at the northeast corner of section six, township seven south, range thirteen east, Mount Diablo base and meridian; thence south on the east line of section six and seven to the intersection of the north line of the California state highway; thence northwesterly along said highway to a point that is at right angles northeasterly from the northwest corner of lot five of Buhach colony; thence southwesterly on the lot lines to a point ten chains southwest of the northwest corner of said lot five; thence northwesterly parallel with the right of way of the Central Pacific Railroad to a point on the easterly line of lot two of Buhach colony ten chains southwest of the northeast corner of said lot; thence southwesterly on lot lines to the southeast corner of lot twenty-four; thence southeasterly to the northeast corner of lot thirty-one; thence southwesterly to the southeast corner of lot thirty-one; thence south to the southeast corner of lot fifty-seven; thence west to the southwest corner of lot fifty-seven; thence south on the westerly line of lot fifty-six to the southerly line of canal right of way; thence southeasterly along said canal right of way through lots fifty-six, fifty-five, fifty, fifty-one and fifty-two to the east line of lot fifty-two; thence south to the southeast corner of lot fifty-three, all in Buhach colony; thence west one mile to the northeast corner of section twenty-three; thence south one mile to the south-east corner of section twenty-three; thence west one-half mile; thence north one mile; thence west one-half mile to the south-west corner of section fourteen; thence north one-half mile; thence west one-fourth mile; thence north one-fourth mile; thence west three-eighths mile; thence north one-fourth mile; thence east one and three-eighths miles to the southeast corner of lot thirty, Atwater colony; thence north one mile to the northeast corner of lot three, Atwater colony; thence west to the northwest corner of lot four of said colony; thence north to the north line of the state highway; thence northwesterly along state highway to the west line of section two, township seven south, range twelve east, Mount Diablo base and meridian; thence north to the northwest corner of section two; thence west to the quarter corner on the south line of section thirty-four, township six south, range twelve east, Mount Diablo base and meridian; thence north one and one-half miles to the center of section twenty-seven; thence east about one-half mile to the intersec-

tion of the westerly line of the Livingston canal right of way; thence southeasterly along the southerly line of said canal right of way to the south line of section twenty-six; thence east to the northeast corner of section thirty-five; thence south about one-half mile to the south line of said canal right of way; thence southeasterly along the south line of said canal right of way to the intersection of the south boundary of section thirty-one of township six south, range thirteen east, Mount Diablo base and meridian; thence east about three-fourths mile to the place of commencement.

§ 3. **Urgency measure.** Inasmuch as there are in said district bodies of stagnant water in close proximity to a large number of residences; and inasmuch as said bodies of stagnant water are injurious to the health of the inhabitants of said community, and for the preservation of the safety and health of the public, must be drained; and inasmuch as this act is necessary to provide ample power for the drainage of said bodies of stagnant water, it is hereby determined and declared that this act, and each and all of the provisions thereto, constitute and is an urgency measure necessary for the immediate preservation of the public safety and health within the meaning of section one, article four of the constitution and shall take effect and be in full force immediately from and after its passage.

ACT 977.

An act to create a drainage district to be called Knight's Landing ridge drainage district; to promote drainage therein by the making of a cut through Knight's Landing ridge, and the construction of a canal leading therefrom; to provide for the election and appointment of officers of said drainage district; defining the powers, duties and compensation of such officers; and providing for levying and collecting assessments upon the lands within said drainage district; the issuance of bonds by said drainage district and testing the validity of the levy of such assessments and the issuance of such bonds.

[Approved April 30, 1913. Stats. 1913, p. 109.]

Amended 1915, p. 546; 1917, p. 277.

The amendment of 1917 follows:

§ 7½. **Assessments adjudged invalid become credit.** In the event that any land owner of the said districts shall have paid the amount, or any portion of the amount, assessed against any tract of land before said assessment shall have been adjudged invalid, in whole, or in part, the amount so paid by said land owner, together with legal interest thereon from the date of such payment, shall be a credit and shall be credited by the treasurer of the county where the assessment list is filed, or by said district, or upon any subsequent assessment on the tract of land on which the said invalid assessment was paid, or be applied in satisfaction pro tanto of any such subsequent assessment thereafter levied on said tract. [New section added May 5, 1917; Stats. 1917, p. 278.]

The amendment adding § 7½ to the act also contained the following provision:

§ 2. **Repealed.** All acts and parts of acts in conflict with the pro-

visions of this act are hereby repealed. [New section added May 5, 1917; Stats. 1917, p. 277.]

ACT 985.

An act to promote drainage.

[Approved March 18, 1885. Stats. 1885, p. 204.]

Amended 1891, p. 262; 1909, p. 25; 1917, p. 782.

The amendment of 1917 follows:

§ 20½. Disincorporation of drainage district. Taxes for payment of indebtedness. Any drainage district organized under the provisions of this act may be disincorporated at any time by proceedings had in the following manner:

Whenever a petition praying for such disincorporation shall be presented to the trustees of said district, signed by a majority of the electors therein, they shall call an election in the same manner as elections for members of the board of trustees are called, and submit to the electors of said district the question of disincorporation. Said election shall be held in all respects in the same manner as regular elections of trustees of the district. If it appears that two-thirds of the electors voting at said election have voted in favor of disincorporation, the trustees shall cause such fact to be entered upon their minutes, and shall forward a copy of such entry to the board of supervisors of the county in which the district was formed, who shall file the same with their clerk, and from the date of such filing, said district shall be deemed disincorporated; provided, that if at the time of the dissolution, or disincorporation of said district, there be any outstanding bonded or other indebtedness of such district, then taxes for the payment of such bonded or other indebtedness shall be levied and collected the same as if such district has not been dissolved and disincorporated, but for all other purposes such district shall be deemed dissolved and disincorporated from the time of the forwarding of said copy of such entry to said board of supervisors. [New section added May 21, 1917; Stats. 1917, p. 782.]

ACT 988a.

An act declaring certain drainage work already done within drainage district number one, Butte county, to have been legally done, validating the same, and making such work a proper subject for the levy of an assessment to pay therefor; authorizing the levy and collection of such assessment in said district to provide for such payment, and interest; the original assessment levied and collected being insufficient to provide for such payment.

[Approved May 21, 1917. Stats. 1917, p. 789. In effect July 27, 1917.]

§ 1. Work in drainage district No. 1, Butte county validated. All the work, labor, and services rendered drainage district number one in the county of Butte, state of California, in the construction, maintenance and repair of main and lateral drainage ditches, and drainage works, already done upon lands lying within said district, for the payment for which the original assessment levied and collected under the provisions of the act entitled, "An act to promote drainage," approved March 18, 1885, as amended, was insufficient, is hereby declared to have

been legally done, is hereby validated and is hereby made a proper subject for the levy of an assessment for the payment therefor.

§ 2. **Statement to board of supervisors. Order to make assessment.** The board of trustees of said drainage district is hereby authorized and empowered to present to the board of supervisors of said county, a statement of all the work, labor and services rendered said district in the construction, maintenance and repair of main and lateral drainage ditches, and drainage works, already done upon lands lying within said district, for the payment for which the original assessment levied and collected under the provisions of said act approved March 18, 1885, as amended, was insufficient. Such statement shall contain a memorandum of the unpaid claims existing by reason of the performance of said work, and the names of the respective claimants; and shall specify those claims included in said memorandum for which warrants have been issued, if there are any such claims, and the date of their registration, and shall also specify those claims included in said memorandum for which no warrants have been issued, if there are any such claims. Said board of supervisors is hereby authorized and empowered to make an order directing that the commissioners who made such original assessment, or other commissioners to be named in such order, assess upon the lands situated within said district a charge proportionate to the whole expense incurred for such work, the total of which shall not exceed the sum of six thousand dollars, and to the benefit which has resulted from such work; which charges must be collected and paid into the county treasury of said county either in cash or in regularly issued warrants of said district as hereinafter provided, and must be placed by the treasurer of said county to the credit of said district, and applied to the payment of said claims, and to the payment of interest on any of said claims for which warrants were issued and registered, at the rate of six per cent per annum, from the respective dates of registration, upon the warrants of said trustees, approved by said board of supervisors.

§ 3. **Warrants.** All such warrants drawn by said trustees must, after they have been approved by said board of supervisors, be presented to said treasurer; and if they are not paid on presentation like indorsement must be made thereon, and they must be registered in like manner as county warrants, and paid in the order of their registration. All of such warrants shall, from the date of their registration, bear interest at the rate of six per cent, per annum; provided, however, that any of such warrants may be used in the payment of the assessment herein provided for without regard to the order of their registration.

ACT 988b.

An act validating the formation and organization of Los Angeles County Drainage District Improvement No. 1 under the provisions of an act of the legislature of the state of California approved March 21, 1903, as amended May 7, 1915, and entitled as amended, "An act to promote the drainage of wet, swamp and overflowed lands and to promote the public health in the communities in which they lie,

providing for the issuance of lands and levying of assessments on lands benefited, to pay the costs and expenses thereof." [Approved March 4, 1917. Stats. 1917, p. 227.]

The nature and purpose of the act sufficiently appear from the title.

TITLE 160.

EGGS.

ACT 991a.

An act to regulate the sale of eggs which have been in transit more than thirty-one days, and prescribing penalties for violations thereof.

[Approved May 5, 1917. Stats. 1917, p. 258. In effect July 27, 1917.]

§ 1. **Words defined.** For the purpose of this act the words "person, firm, company or corporation" shall include wholesalers, retailers, jobbers, and every person, firm, company or corporation owning, operating or conducting any place of business where eggs are sold or offered for sale.

§ 2. **Eggs in transit more than thirty-one days to be marked "storage."** Every person, firm, company or corporation who sells, offers for sale, or has in his or their possession for sale, or consigns, ships or presents to any dealer, commission merchant, consumer, or other person, any egg or eggs which said egg or eggs is or were produced at any place requiring thirty-one days or more to transport the eggs to the selling point, shall, before so doing, cause to be stamped, marked or branded upon the container thereof in black-faced letters not less than one-half of an inch in height the word "storage."

§ 3. **Display of sign in salesroom.** Every person, firm, company or corporation selling or offering for sale any eggs which were produced at any place requiring thirty-one days or more to transport the eggs to the selling point, prior to the date of sale or offering for sale, shall display in a conspicuous place in his or their public salesroom a sign which shall not be less than one foot in height and six feet in length, bearing the words "storage eggs sold here" in black-faced letters not less than six inches in height and one inch in width upon a white ground.

§ 4. **Report to state board of health.** Every person, firm, company or corporation who receives eggs that have been produced at any place requiring thirty-one days or more to transport the eggs to the selling point, prior to their sale or offering for sale, shall, immediately thereafter report to the state board of health the number of eggs received, the date when received and the place where such eggs were produced, and the name of the person, firm, company or corporation to whom sold.

§ 5. **Enforcement.** It shall be the duty of the state board of health to enforce the provisions of this act, and to that end the said board may make necessary rules and regulations.

§ 6. **Penalty.** Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act is guilty of a mis-

demeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months; or by a fine of not more than two hundred dollars, or by both such fine and imprisonment in the discretion of the court.

TITLE 162.

ELECTIONS.

ACT 1010.

An act to provide for and regulate primary elections, and providing a method for choosing the delegates for political parties to state conventions and for nominating electors of President and Vice-president of the United States, and providing for the election of party county central committees, and to repeal the act approved April 7, 1911, known as the direct primary law, and also to repeal the act approved December 24, 1911, amending sections 1, 3, 5, 7, 10, 12, 13, 22, 23, and 24 of the said direct primary law, and also to repeal all other acts or parts of acts inconsistent with or in conflict with the provisions of this act.

[Approved June 16, 1913. Stats. 1913, p. 1379.]

Repealed 1915, p. 239. Amended 1916 (Extra Session), p. 41; 1917, p. 1341.

The repealing act of 1915 was defeated by a referendum at a general election held October 26, 1915.

The amendatory act of 1916 (Extra Session) was repealed by a referendum at a general election held November 7, 1916. The act in force therefore consists of the original act of 1913 as amended in 1917. The act is herewith given in full;

§ 1. **Definitions.** Words and phrases where used in this act shall, unless such construction be inconsistent with the context, be construed as follows:

1. The words "primary election," any and every primary nominating election provided for by this act.

2. The words "August primary election," the primary election held in August to nominate candidates to be voted for at the ensuing November election or to elect members of a party central committee or delegates to a party convention.

3. The words "May presidential primary election," any such primary election, held in May of each year of the general November election at which electors of President and Vice-president of the United States are to be chosen, as shall provide for the indication of preference in the several political parties for party candidates for President of the United States through the election of delegates to national party conventions.

4. The word "election," a general state, county, city or city and county election as distinguished from a primary election, recall election, or special election.

5. The words "November election," either the presidential election, or the general state, county, or city and county election held in November of each even numbered year.

6. The words "judicial officer," any justice of the supreme court, justice of a district court of appeal, judge of the superior court, justice of the peace, or justice of such inferior court as the legislature may establish in any county, township, incorporated city or town, or city and county; and the words "judicial office," the office filled by any of the above judicial officers.

7. The words "school officer," the superintendent of public instruction and the superintendent of schools of a county or city and county; and the words "school office," the office filled by any of the above school officers.

8. The words "county officer," any officer elected within the boundaries of any county or city and county except a member of the state board of equalization, judge of the superior court, justice of the peace, member of the state senate or assembly or a member of the house of representatives of the congress of the United States or a member of any party county central committee or delegate to a state convention from a holdover senatorial district; and the words "county office," the office filled by any county officer. The words "township officer," any such county officer as is elected within the boundaries of any judicial township that is now or may be hereafter provided by law; and the words "township office," the office filled by any township officer.

9. The word or words "political party," "party," "political organization," or "organization," a political party or organization of electors which has qualified, as hereafter provided, for participation in any primary election; and such party or organization shall be deemed to have so qualified when one or both of the following conditions have been complied with:

(a) **Qualification as political party.** If at the last preceding November election there was polled for any one of its candidates who was the candidate of such party only for any office voted on throughout the state, at least three per cent of the entire vote of the state, or for any one of its candidates who was the joint candidate of such party and any other party for any office voted on throughout the state, at least six per cent of the entire vote of the state; or

(b) If on or before a date which shall be the seventy-fifth day before any primary election, there shall be filed with the secretary of state a petition signed by registered qualified electors of the state, equal in number to at least three per cent of the entire vote of the state at the last preceding November election, declaring that they represent a political party or organization the name of which shall be stated therein, which party said electors desire to have participate in such primary election; such petition to be circulated, signed, and the signatures thereon of the registered electors certified to and transmitted to the secretary of state by the county clerks substantially as provided in section five of this act, for the circulation, signing, certification, and transmission of nomination papers for state officers; providing, however, that no electors or organization of electors shall assume a party name or designation which shall be so similar to the name of an existing party or organization as to mislead voters.

Construction. This statute shall be liberally construed, so that the real will of the electors shall not be defeated by any informality or failure to comply with all the provisions of this law.

In counties having registrar. In each county and city and county in this state, having a registrar of voters or registrar of voters and a board of election commissioners, the powers conferred and the duties imposed in this statute upon a county clerk and his deputies, and other officers, in relation to matters of election and polling places, shall be exercised and performed by such registrar of voters or his deputies, or registrar of voters or his deputies and board of election commissioners; and all nominating papers, list of candidates, expenses, and oaths of office, required by this statute to be made to or filed with county clerks, shall be made to or filed with the registrar of voters. [Amendment approved May 29, 1917; Stats. 1917, p. 1341.]

§ 2. **Nomination of candidates.** All candidates nominated at a primary election for elective public offices shall be nominated by direct vote at such election held in accordance with the provisions of this act; provided, that electors of President and Vice-president of the United States shall be nominated as provided in subdivision 2 of section 24 of this act. This act shall not apply to recall elections or to special elections to fill vacancies; nor to the nomination of officers of municipalities, counties, or cities and counties whose charters provide a system for nominating candidates for such officers; nor the nomination of officers for any district not formed for municipal purposes; nor to the nomination of freeholders to be elected for the purpose of framing a charter; nor to the nomination of officers for cities of the fifth and sixth classes, nor to the nomination of school district officers. [Amendment approved May 29, 1917; Stats. 1917, p. 1343.]

§ 3. **August primary. Legal holidays.** The August primary election shall be held at the legally designated polling places in each precinct on the last Tuesday in August, for the nomination of all candidates to be voted for at the ensuing November election. The day of the August primary election and the day of the May presidential primary election are hereby declared to be holidays within the meaning of section 10 of the Political Code. Any person entitled to vote at such August or May primary elections shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for the period of two consecutive hours, between the time of opening and the time of closing the polls; and such voter shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made, on account of such absence, from his usual salary or wages. Any primary election other than the August primary election, or May presidential primary election shall be held on Tuesday, three weeks next preceding the election for which such primary election is held.

§ 4. **Statement of electors registered. Notice of offices for which candidates are to be nominated.** On the twenty-fifth day before the first Tuesday in May, on the twenty-fifth day before the last Tuesday in August, and on the twenty-fifth day before the date of the November

election, in each even numbered year, the county clerk or registrar of voters of each county or city and county shall transmit a statement to the secretary of state of the total number of electors registered in his county between the first day of January next preceding and a date in each instance five days preceding the date of transmission of such statement as herein provided for, together with the number so registered under each of the several political affiliations, and also the number declining or failing to declare such affiliation. At least seventy days before the time of holding the August primary election in 1918 and biennially thereafter, the secretary of state shall prepare and transmit to each county clerk and to the registrar of voters in any city and county a notice in writing designating all the offices, except township offices, for which candidates are to be nominated at such primary election, together with the names of the political parties qualified to participate in such election.

2. **Publication of notice.** Within ten days after receipt of such notice such county clerk or registrar of voters in any city and county shall publish once in each week for two successive weeks in not more than two newspapers published in such county or city and county so much thereof as may be applicable to his county, including a statement of the township offices in the county for which candidates are to be nominated, and a statement of the number of members of the county central committee to be elected by each political party in each supervisorial or assembly district, as the case may be, according to the provisions of subdivision 4 of section 24 of this act.

3. **Publication of notice of other primaries.** In the case of primary elections other than the August primary elections the city clerk or secretary of the legislative body of the political subdivision for which such primary election shall be held shall cause one publication of such notice to be given, such publication to be not more than forty and not less than fourteen days before such primary election. [Amendment approved May 29, 1917; Stats. 1917, p. 1344.]

§ 5. **Method of getting name on ballot.** 1. The name of no candidate shall be printed on an official ballot to be used at any primary election unless at least forty days prior to the primary election, if the candidate is to be voted for at the August primary election or the May presidential primary election, and at least twenty-five days prior to the primary election, if the candidate is to be voted for at a primary election other than the August or May primary election, a nomination paper nominating such candidate shall have been prepared, circulated, signed, verified and left with the county clerk for examination, or for examination and filing, in the manner provided by this act.

2. **Verification deputies. Form of documents. Additional deputies.** (a) The candidate may appoint verification of deputies to serve within the county or city and county in which such deputies reside in securing signatures to his nomination paper for nomination to the office for which he is a candidate, and the verification deputies thus appointed shall be recognized as the duly authorized verification deputies to secure sig-

natures to the nomination paper of such candidate in such county or city and county. The document in which such verification deputies are appointed as herein provided shall be filed with the county clerk of the county or city and county in which such verification deputies reside, at or before the time the nomination paper of the candidate is left with the county clerk for filing or for examination as provided in subdivision 4 of this section. Said document shall be in substantially the following form:

I, the undersigned, a candidate for the —— party nomination for the office of ——, which nomination is to be made by direct note at a primary election to be held on the —— day of August, 19—, do hereby appoint the following registered qualified electors of the county of ——, as verification deputies to obtain signatures in said county to a nomination paper placing me in nomination as a candidate of said —— party for said office of ——.

Verification Deputies.

Name.	Residence.
——	——
——	——
——	——
——	——
etc.	etc.

(Signature) —— ——.
(Residence) —— ——.

Filed in the office of the county clerk of —— county this —— day of ——, 19—.

—— ——, County Clerk.
By —— ——, Deputy.

In case it is desired to appoint additional verification deputies to secure signatures to the nomination paper of such candidate, one or more similar documents may be filed to supplement the first document. When the office for which the candidate is proposed is a judicial, school, county, township or municipal office, the words "—— party," and the words "of said —— party," shall be omitted from said document. Or, as an alternative to the foregoing portion of this section and subdivision, verification deputies may be appointed in behalf of a candidate as follows:

2. **Five electors may propose candidate. Consent of candidate. Form of document. Additional deputies.** (b) Any five qualified electors of any county or city and county who are registered as intending to affiliate with the same political party may join in proposing a candidate for nomination to any office to be voted on in such county or city and county at the next ensuing primary election, and in appointing verification deputies to serve within such county or city and county in securing signatures to the nomination paper of such candidate for such office. If the office is an office the candidate for which is to be voted on in more than one county, he may be proposed for nomination as herein provided by five of the registered qualified electors in each of the counties in which such electors may desire to circulate a nomination paper in his

behalf. The signatures of the said five qualified electors shall be verified free of charge before any officer authorized to administer an oath, and the document containing such signature shall be filed with the county clerk of the county or city and county in which said five qualified electors reside, at or before the time the nomination paper of the candidate is left with the county clerk or registrar of voters for filing or for examination as provided in subdivision four of this section. In said document the five signers shall make affidavit that the candidate therein named for the office therein specified has given his consent to be thus proposed for nomination to such office; and shall also state that the verification deputies therein appointed are duly registered qualified electors of said county or city and county; and the verification deputies therein appointed shall be recognized as the duly authorized verification deputies to secure signatures to the nomination paper of such candidate in such county or city and county. Said document shall be substantially in the following form:

State of California,
County of ——, ss.

We, the undersigned, do solemnly swear (or affirm) that we are each qualified electors of the county of ——, state of California, and that we are each registered as intending to affiliate with the —— party and we do hereby propose ——, who resides at No. ——, —— street in the city of (or in the town of) ——, county of ——, as a candidate for the nomination of such party for the office of ——, to be voted for at the primary election to be held on the —— day of August, 19—; and we do solemnly swear (or affirm) that said —— has consented to this proposal of his name as candidate for the nomination for said office. We hereby appoint the following registered qualified electors of this county as verification deputies to obtain signatures in this county to the nomination paper of said —— to said office of ——.

Verification Deputies.

Name.	Residence.
——	——
——	——
——	——
——	——
etc.	etc.

(Signed)

Name.	Residence.
——	——
——	——
——	——
——	——

Subscribed and sworn to before me this —— day of ——, 19—.
(Seal)

—— ——
Notary public (or other official).

In case it is desired to appoint additional verification deputies to secure signatures to the nomination paper of said candidate, one or more similar documents may be filed, to supplement the first document. When the

office for which the candidate is proposed is a judicial, school, county, township, or municipal office, the provisions of this subdivision shall apply, except that the five qualified electors shall make no statement of their party affiliation and may be affiliated with different parties or with no party; and the candidate proposed for nomination shall not be so proposed as the candidate of any party.

3. **Obtaining signatures to nomination papers. Presentation in sections. Affidavit of deputies. Sections returned to five electors. Form of each section. Deputy's affidavit. Judicial office.** Verification deputies appointed as provided in subdivision two of this section to obtain signatures to the nomination paper of any candidate for any office to be voted for at any primary election, may, at any time not more than sixty-five days nor less than forty days prior to such election, obtain signatures to such nomination paper of such candidate for such office; each signer of a nomination paper shall sign but one such paper for the same office, except that in case two or more persons are to be elected to the same office at the same election, an elector may sign the nomination papers of as many persons as there are persons to be elected to such office, and such act on the part of such elector shall not be deemed in conflict with the signer's statement hereinafter provided. In the case of primary elections other than August primary elections or May presidential primary elections, signatures may be obtained not more than forty days nor less than twenty-five days prior to such election.

He shall also declare his intention to support such candidate for nomination, and shall add his place of residence, giving his street and number if any. His election precinct shall also appear on the paper just preceding his name, and he shall write the date of his signature at the end of the line just after his residence. Any nomination paper may be presented in sections, but each section shall contain the name of the candidate and the name of the office for which he is proposed for nomination. Each section shall bear the name of the city or town, if any, and also the name of the county or city and county, in which it is circulated, and only qualified electors of such county or city and county, registered as intending to affiliate with the political party by which the nomination is to be made shall be competent to sign such section. Any section circulated within any incorporated city or town shall be signed only by registered qualified electors of such city or town. Each section shall be prepared with the lines for signatures numbered, and shall have attached thereto the affidavit of the verification deputy who has obtained signatures to the same, stating that all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief, each signature to the section is the genuine signature of the person whose name it purports to be; and no other affidavit thereto shall be required. The affidavit of any verification deputy obtaining signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such nomination paper so verified shall be prima facie evidence that the signatures thereto appended are genuine and that the persons signing the same are registered qualified electors, unless and until it is otherwise proven by comparison of such signatures with the affidavits of resignation in the office of the

county clerk or registrar of voters. Each section of the nomination paper, after being verified, shall be returned by the verification deputy who circulated it to one of the five electors by whom the said verification deputy was appointed; and in this manner all the sections circulated in any county shall be collected by said five electors of that county and shall be by them arranged for filing or for examination, as provided in subdivision four of this section, and shall then be by some one of them filed for examination and filing. In case said verification deputy was appointed directly by the candidate according to the provisions of subdivision two (a) of this section, the collecting, arranging, and filing, or leaving for examination and filing, of the sections of the nomination paper shall be done by the candidate, or on his behalf, instead of by the "five electors" as hereinbefore provided. Each section of the nomination paper shall be in substance as follows:

County of ——, city (or town) of —— (if any).

Nomination paper of ——, candidate for —— party nomination for the office of ——.

State of California,
County of ——, ss.

Signer's Statement.

I, undersigned, am a qualified elector of the city (or town) of ——, county of ——, state of California, and am registered as intending to affiliate with the —— party; and I hereby nominate —— who resides at No. — —— street, city of ——, county of ——, state of California, as a candidate for the nomination of the —— party for the office of —— to be voted for at the primary election to be held on the —— day of August, 19—. I have not signed the nomination paper of any other candidate for the same office, and I further declare that I intend to support for such nomination the candidate named herein.

I furthermore declare that I have not signed the nomination paper of this candidate or any other candidate for office, as candidate of any other party at such primary election.

No.	Precinct	Signature	Residence	Date
1	.....	.....	.....	.....
2	.....	.....	.....	.....
3	.....	.....	.....	.....
4	.....	.....	.....	.....
5	.....	.....	.....	.....
etc.	.....	.....	.....	.....

Verification Deputy's Affidavit.

I, ——, solemnly swear (or affirm) that I have been appointed according to the provisions of subdivision 2, section 5 of the direct primary law, as a verification deputy to secure signatures in the county of —— to the nomination paper of —— as candidate for the nomination of the —— party for the office of ——; that all the signatures on this section of said nomination paper, numbered from one to —— inclusive, were made in my presence, and that, to the best of my knowl-

edge, and belief, each of said signatures is the genuine signature of the person whose name it purports to be.

(Signed) —— ——
Verification deputy.

Subscribed and sworn to before me this —— day of ——, 19—.
(Seal)

—— ——
Notary public (or other official.)

In the case of a nomination paper for any candidate for a judicial, school, county, township or municipal office, the provisions of this subdivision shall apply, except that no such nomination paper nor any section thereof shall contain the name of any political party and any nomination paper for any candidate for a judicial office, school office, county office, township office, or municipal office may be signed by any registered qualified elector of the county or city and county, whether registered as being affiliated with any, or with no, political party.

4. **Arrangement prior to filing. Form of index. Candidates voted for in more than one county. Examination by clerk. Time for filing. Persons who may not verify signatures. Statement of candidate.** Prior to the filing of a nomination paper for any candidate, the sections thereof must be numbered in order and fastened together by cities or towns or portions of the county not included in such cities or towns, substantially in the manner required for the binding of affidavits of registration by the provisions of section 1113 of the Political Code; provided, that the sections of the nomination paper may be preceded by an index of precincts, arranged by cities, towns or outside territory in the numerical or alphabetical order of such precincts for each such city, town or outside territory and showing after the name or number of such precinct the numbers of the sections on which the names of the electors registered in such precinct are to be found, and after the number of each section, the number (in parentheses) of times such names are to be so found on such section. Such index shall be in substantially the following form:

City of —— ——

No. of precinct	Numbers of sections containing voters of precinct			
1.....	1 (3 times)	2 (5 times)	3 (7 times)	etc.
2.....	1 (4 times)	2 (0 times)	3 (6 times)	etc.
etc.....		etc.		

Town of —— ——

etc.

Outside Territory

etc.

And provided, further, that for all nominations of candidates to be voted for in more than one county, or throughout the entire state, the nomination papers, properly assembled, may be consolidated and fastened or bound together by counties; but in no case shall nomination papers signed by electors of different counties be fastened or bound together. The county clerk or registrar of voters of any county or city and county shall examine all nomination papers herein provided for which purport to have been signed by electors of his county or city and county, and

shall disregard and mark "not sufficient" any name appearing on such paper or papers which does not appear in the same handwriting on an affidavit of registration in his office made on or before the date when such name was signed, or which, except in the case of nomination papers of candidates for judicial, school, county, township or municipal offices, the signers of which may be registered as of any or of no party, does not appear on said affidavit as intending to affiliate with the party named in such nomination papers. Such officer shall, within five days after any nomination papers are filed with him or left for examination, examine the same as herein provided, and affix thereto, a certificate reciting that he has examined the same and stating the number of names signed thereto which have not been marked "not sufficient" as hereinabove provided. All nomination papers which by this act are required to be filed in the office of the secretary of state, shall be left with the county clerk or registrar of voters for examination, as above provided, at least forty days prior to the August primary election or the May presidential primary election, and shall, with such certificate of examination attached, within five days after being so left, be forwarded by such county clerk or registrar of voters to the secretary of state, who shall receive and file the same. All nomination papers which by this act are required to be filed in the office of the city clerk or secretary of the legislative body of any city or municipality shall be left with the county clerk or registrar of voters for examination, as above provided, at least twenty-five days prior to the primary election at which such nominations are to be made, and shall, with such certificate of examination attached, within five days after being so left be forwarded by such county clerk or registrar of voters to the city clerk or secretary of the legislative body of such city or municipality who shall receive and file the same. The verification of signatures to nomination papers shall not be made by the candidate, nor by any county clerk, or registrar of voters, nor by any of the deputies in the office of such county clerk or registrar of voters, nor within one hundred feet of any election booth, polling place, or any place where registration of electors is being conducted. Each candidate on or before the thirty-fifth day prior to the August primary election or the May presidential primary election, or on or before the twenty-fifth day prior to any other primary election, shall file in the place where his nomination paper is required to be filed, as provided in section 6 of this act, his affidavit, stating his residence, with street and number, if any; his election precinct; that he is a qualified elector in the election precinct in which he resides; the name of the office for which he is a candidate; that he will not before said primary election withdraw as a candidate for nomination and that if nominated he will accept such nomination and not withdraw, and that he will qualify as such officer if nominated and elected; and he shall also make the statement required in subdivision 5 of section 6 of this act. Nothing in this act contained shall be construed to limit the rights of any person to become the candidate of more than one political party for the same office upon complying with the requirements of this act, but no person shall be entitled to become a candidate for more than one office at the same election. No more than one affidavit need be filed by any candidate, even though he is the candidate for nomination by more than one political party. In no case shall the secretary of state, county clerk, or city clerk, place the name of any candidate on this ballot or certify

any such name to be placed thereon unless the requisite affidavit has first been filed as herein provided.

5. **Number of signatures required.** Except in the case of a candidate for nomination to a judicial office, school office, county office, or township office, nomination papers shall be signed as follows: If the candidate is the candidate for an office to be voted on throughout the state, by not less than one-half of one per centum and not more than two per centum of the vote constituting the basis of percentage as defined in subdivision 6 of this section, of the party of the candidate seeking nomination, within the state; if the candidate is the candidate for an office to be voted on in some political subdivision of the state, but not throughout the state, by not less than one per centum nor more than two per centum of the vote constituting the basis of percentage, as defined in subdivision 6 of this section, of the party of the candidate seeking nomination within said political subdivision in which such candidate seeks nomination.

6. **Basis of percentage.** Except in case of a candidate for nomination to a judicial, school, county, township or municipal office, the basis of percentage in each political party shall be the vote polled for such party's candidate for governor, at the last preceding November election at which a governor was elected, in the state or in that political subdivision for which the candidate is proposed for nomination. Such party's candidate for governor may have been the candidate, either of the party alone, or of the party in conjunction with one or more other parties. But if such political party did not have any candidate for governor at such last preceding November election at which a governor was elected, the nomination paper must be signed by not less than one-half of one per centum nor more than two per centum of the total vote polled for all the candidates for governor, at such last preceding November election in the state or political subdivision for which the candidate is proposed for nomination.

7. **In case of change of political subdivision.** Whenever by rearrangement of political subdivisions of the state by any legislature, board of supervisors or other legislative body, the boundaries of such political subdivisions are changed, the vote polled for governor at the last preceding gubernatorial election by each party in each of the new political subdivisions shall be determined as follows: If the change occurs wholly within any county or city and county, the county clerk or registrar of voters of such county or city and county shall determine as nearly as possible such vote of each party in the new political subdivision by adding together for each party the vote for such party's candidate for governor in each of the former precincts which now are combined to make up such new political subdivision. If the change occurs outside the limits of any county or city and county, the secretary of state shall determine such vote of each party in such new political subdivision by adding together for each party the vote for such party's candidate for governor in the counties which now are combined to make up such new political subdivision. In the same way that the highest vote for each party in each new political subdivision is ascertained, shall also be ascertained the total vote at such election as is required to be determined by the provisions of subdivision eight of this section. Every

political party qualified to participate in the primary election by the provisions of subdivision nine of section one of this act, for nomination by which party there shall have been filed nomination papers for one or more candidates containing a sufficient number of signatures, shall be entitled to a separate party ticket at the primary election; but all such party tickets must be alike in the designation of candidates for judicial, school, county, and township offices.

8. **In case of judicial office, etc.** In the case of a candidate for nomination to a judicial school, county, township or municipal office, nomination papers shall be signed by not less than one-half of one per centum, nor more than two per centum of the total vote cast at the last general election in the state or political subdivision thereof in which such candidate for judicial or school, county, or township office seeks nomination.

9. **Independent candidates.** Nothing herein shall be construed as prohibiting the independent nomination of candidates as provided by section 1188 of the Political Code, as said section reads at the time of said nomination; except that a candidate for whom a nomination paper has been filed as one of the candidates for nomination to any office on the ballots of any political party at a primary election held under the provisions of this act, and who is defeated for such party nomination at such primary election, shall be ineligible for nomination as an independent candidate for the same office at the ensuing general election; and no person shall be permitted to file nomination papers for a party nomination and an independent nomination for the same office, or for more than one office at the same election. Nor shall any person whose name has been written in upon any ballot or ballots for any office at any primary election, have his name placed upon the ballot as a candidate for such office at the ensuing general election, except under the provisions of said section 1188 of the Political Code, unless at such primary election he shall have received for such office votes equal in number to the minimum number of signatures to the nomination paper which would have been required to be filed to have placed his name on the primary ballot as a candidate for nomination to such office.

10. **Record of papers filed.** The officer with whom nomination papers are filed shall keep a record in which he shall enter the names of every person presenting the same for filing, the name of the candidate, the title of the office, the party, if any, and the time of filing. [Amendment approved May 29, 1917; Stats. 1917, p. 1345.]

§ 6. **Office in which papers must be filed.** All nomination papers provided for by this act shall be filed as follows:

1. For state officers, United States senators, representatives in congress, members of the state senate and assembly, delegates to state conventions from "hold-over senatorial districts" and all officers voted for in districts comprising more than one county, in the office of the secretary of state.

2. For officers to be voted for wholly within one county or city and county, except representatives in congress, delegates to state conventions from "holdover senatorial districts" and members of the state

senate and assembly, in the office of the county clerk of such county or in the office of the registrar of voters in such city and county.

3. For city officers, in the office of the city clerk or secretary of the legislative body of such city or municipality.

4. When a nomination paper or sections thereof shall have been received which contain a number of signatures equal to two per centum of the votes constituting the basis of percentage as provided in subdivisions 5, 6 and 9 of section 5 of this act, the officer with whom such papers are required to be filed shall not receive or file further sections of the nomination paper for the candidate named therein.

5. No more signatures shall be secured for any candidate than a number equal to three per centum of the vote constituting the basis of percentage as provided in subdivisions 5, 6, and 9 of section 5 of this act: provided, that if, through miscalculation or otherwise, more signatures are secured than the said three per centum, all sections of the nomination paper containing signatures in excess of said three per centum must be sent to the candidate; and before any nomination paper is filed as provided in this section, the candidate must notify each signer of such excess sections that his name has not been used; and in the affidavit required to be filed in subdivision 4 of section 5 of this act, affiant must state whether he has complied with the provisions contained in subdivision 5 of section 6 of this act.

§ 7. Filing fees. 1. A filing fee of fifty dollars shall be paid to the secretary of state by each candidate for state office or for the United State senate, except as otherwise provided in this section.

2. A filing fee of twenty-five dollars shall be paid to the secretary of state by each candidate for representative in congress or for any office, except member of state senate and assembly, to be voted for in any district comprising more than one county.

3. A filing fee of ten dollars shall be paid to the secretary of state by each candidate for the state senate or assembly.

4. A filing fee of ten dollars shall be paid to the county clerk or registrar of voters in any city and county when the nomination paper or papers and affidavit of any candidate to be voted for wholly within one county or city and county are filed with such county clerk or registrar of voters.

5. A filing fee of ten dollars shall be paid to the city clerk or secretary of the legislative body of any municipality when the nomination paper or papers and affidavit of any candidate for a city office are filed with such clerk or secretary of such legislative body.

6. No filing fee shall be required from any person to be voted for at the May presidential primary election, or from any candidate for an office to the holder of which no fixed compensation is required to be paid, or for township or municipal offices the compensation to the holder of which does not exceed the sum of six hundred dollars per annum.

7. In no case shall the secretary of state, county clerk, registrar of voters, or city clerk, receive any nomination papers for filing until the requisite fee for such filing, as prescribed in this section, has first been paid to him.

8. When a person for whom a nomination paper has not been filed is nominated for an office by having his name written on a primary elec-

tion ballot, he must pay the same filing fee that would have been required if his nomination paper had been filed; otherwise his name must not be printed on the ballot at the ensuing general election.

9. When a candidate for nomination to office is proposed for nomination by more than one political party, he must pay a separate filing fee for each party in which he is proposed for nomination; or if, having filed a nomination paper for one party, he is nominated by another party by having his name written on a primary election ballot, he must pay the same filing fee for such other party nomination that would have been required if his nomination paper for such other party had been filed; otherwise his name shall not be printed on the general election ballot as the nominee of such other party. [Amendment approved May 29, 1917; Stats. 1917, p. 1354.]

§ 8. **Clerk to pay fees to treasurer.** The county clerk shall immediately pay to the county treasurer and the registrar of voters in any city and county shall immediately pay to the city and county treasurer all fees received from candidates. The city clerk or secretary of the legislative body of any municipality shall immediately pay to the city treasurer all fees received from candidates. Within ten days after the primary election the secretary of state shall pay to the state treasurer all fees received from candidates and shall apportion the fees paid to him by each candidate equally among the counties within which such candidate is to be voted for, and certify such apportionment to the state controller, who shall issue warrants on the state treasurer for the amount due each county and the state treasurer shall pay the same.

§ 9. **Expense of primary.** The expense of providing all ballots, blanks and other supplies to be used at any primary election provided for by this act and all expenses necessarily incurred in the preparation for or the conduct of such primary election shall be paid out of the treasury of the city, city and county, county or state, as the case may be, in the same manner, with like effect and by the same officers as in the case of general elections.

§ 10. **Secretary of state to transmit list of nominees. Publication by clerk.** At least thirty days before any August primary election preceding a November election or before any May presidential primary election the secretary of state shall transmit to each county clerk or registrar of voters in any city and county a certified list containing the name and postoffice address of each person for whom nomination papers have been filed in the office of such secretary of state, including the candidate for delegate to a state convention, if any, from a "hold-over senatorial district" and who is entitled to be voted for in such county at such primary election, together with a designation of the office for which such person is a candidate and except in the case of a judicial office, or a school office of the party or principle he represents. Such county clerk or registrar of voters shall forthwith, upon receipt thereof, publish under the proper party designation the title of each office (except a judicial office or a school office) which appears upon the certified list transmitted by the secretary of state as hereinbefore provided, together with the names and addresses of all persons for whom nomina-

tion papers have been filed for each of said offices in the office of the secretary of state, and also the names of all candidates for the county central committee, filed in the office of the county clerk or registrar of voters. He shall also publish the title of each judicial office, school office, county office, and township office, together with the names and addresses of all persons for whom nomination papers have been filed for each of said offices, either in the office of the secretary of state or in the office of the county clerk or registrar of voters, and shall state that candidates for said judicial, school, county, and township offices may be voted for at the primary election, by any registered, qualified elector of the county, whether registered as intending to affiliate with any political party or not. He shall also publish the date of the primary election, the hours during which the polls will be open, and that the primary election will be held at the legally designated polling places in each precinct, which shall be particularly designated. It shall be the duty of the county clerk or registrar of voters in any city and county to cause such publication to be made once each week for two successive weeks prior to said primary election.

§ 11. **Newspapers in which publication shall be made.** Every publication required by this act shall be made in not more than two newspapers of general circulation published in such county or city and county, and one of such newspapers shall represent the political party that cast at the last preceding general election the highest number of votes in such county or city and county, and one of such newspapers, if any, shall represent the party which cast the next highest number of votes at such election. In any case where the publication of the notices provided for by this act cannot be made as hereinbefore provided it shall be made in any newspaper having a general circulation in the city or county in which the notice is required to be published.

§ 12. **Ballots. Nonpartisan ballot.** 1. All voting at primary elections within the meaning of this act shall be by ballot. A separate official ballot for each political party shall be printed and provided for use at each voting precinct; but all such party ballots must be alike in the designation of candidates for judicial, school, county, and township offices. The ballots must have a different tint or color for each of the political parties participating in the primary election. There shall also be printed and provided a nonpartisan ballot of a different tint and color from all the others (or white, if all the others are colored), which shall contain only, but in like manner, all the candidates for judicial, school, county, and township offices to be voted for at the primary election; and one of the nonpartisan ballots shall, at the primary election, be furnished to each registered qualified elector who is not registered as intending to affiliate with any one of the political parties participating in said primary election; but to any elector registered as intending to affiliate with any political party participating in the primary there shall be furnished, not a nonpartisan ballot, but a ballot of the political party with which said elector is registered as intending to affiliate.

It shall be the duty of the county clerk of each county or of the registrar of voters in any city and county to provide such printed official

ballots to be used at any August primary election for the nomination of candidates to be voted for in such county or city and county at the ensuing November election and at any May presidential primary election. It shall be the duty of the city clerk or secretary of the legislative body of any municipality to provide such printed official ballots for any primary election other than the August primary election or the May presidential primary election. Such official ballots to be used at any primary election shall be printed on official paper, furnished by the secretary of state, in the manner provided by section 1196 of the Political Code, and in the form hereinafter provided. The names of all candidates for the respective offices for whom the prescribed nomination papers have been duly filed shall be printed thereon.

2. **Size.** Official primary election ballots used at any primary election for the nomination of candidates to be voted for at any presidential or general state election, except as provided in subdivision 5 of this section, shall be as long as the herein prescribed captions, headings, party designations, directions to voters and lists of names of candidates, properly subdivided according to the several offices to be nominated for, may require; and no official primary election ballot shall be less than six and one-half inches wide.

3. **How printed.** Across the top of the ballot shall be printed in heavy-faced gothic capital type, not smaller than forty-eight point, the words: "Official Primary Election Ballot"; providing, that on a nonpartisan ballot said words may be printed in gothic capital type not smaller than twenty-four point. Beneath this heading shall be printed in heavy-faced gothic capital type, not smaller than twenty-four point, the party designation if it be a party ballot; or, in the case of a ballot containing the names of no candidates except candidates for a judicial, school, county, or township office, the words, "Nonpartisan Ballot." The instructions to voters shall be printed in ten point gothic type. In the case of official primary election ballots to be used at any primary election held for the nomination of candidates other than those to be voted for at a presidential or a general state election, and on which, in accordance with the provisions of this act, the names of candidates may be printed in a single column or in two parallel columns, as the case may be, the words "Official Primary Election Ballot" shall be printed thereon in heavy-faced gothic capital type, not smaller than twenty-four point. The party or nonpartisan designation shall be printed in heavy-faced gothic capital type, not smaller than eighteen point. The instructions to voters shall be printed in ten point gothic type.

4. **Instructions to voters.** At least three-eighths of an inch below the assembly district designation and the date of the primary election shall be printed in ten point gothic type, double leaded, the following instructions to voters: "To vote for a person whose name occurs on the ballot, stamp a (X) in the square at the right of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose."

5. **Instructions. Candidates in parallel columns. Precedence. Tally sheets.** The instructions to voters shall be separated from the lists of

candidates and the designations of the several offices to be nominated for by one light and one heavy line or rule. The names of the candidates and the respective offices shall, except as may be hereinafter otherwise provided, be printed on the ballot in four or more parallel columns, each two and one-half inches wide. The number of such parallel columns shall be exactly divisible by two, and such parallel columns shall be equally divided on the ballot for party and nonpartisan tickets by a solid black line, extending down from the printed lines separating the instructions to voters from the lists of names of candidates to the bottom margin of the ballot. In the case of a primary election for the nomination of candidates to be voted for at a presidential or general state election, the order of precedence shall be as follows, that is to say: In the column to the left, under the heading STATE shall be printed the groups of names of candidates for state offices, except judicial and school offices, and for members of the state board of equalization. In the second column, under the heading CONGRESSIONAL shall be printed the group of names for United States senator in congress, if any, and for representatives in congress. Next under the heading LEGISLATIVE shall be printed the groups of names for state senator, if any, for member of assembly, and for election as delegate to the state convention from a "hold over senatorial district," if any. Finally under the heading COUNTY COMMITTEE, shall be printed the names of the candidates for election to membership in the county central committee of the party. In the case of primary elections where state officers are not to be nominated, at the left of the solid black dividing line there may be only one column. In the parallel columns to the right of the solid black dividing line shall be printed the groups of names of candidates for nomination to judicial, school, county, and township offices in the following order: Under the heading JUDICIAL shall be printed all the names of candidates for judicial offices, in the order of chief justice supreme court, associate justices supreme court, judge of district court of appeal, judge of superior court and justice of the peace. Next, under the heading SCHOOL shall be printed all the names of candidates for school offices in the order of state superintendent of instruction, superintendent of schools, and school district officers, if any. Next, under the heading COUNTY AND TOWNSHIP shall be printed the groups of candidates for all county and township offices except judicial or school offices. In the case of primary elections where county officers are not to be nominated, at the right of the solid black dividing line there may be only one column. The nonpartisan ballot provided for in subdivision 1 of this section shall be identical as to offices and names of candidates with that portion of the party ballot which is printed to the right of the solid black dividing line hereinabove described. The tally sheets furnished to election officers shall have the names of offices and candidates arranged in the order in which said names of offices and candidates are printed on the ballots according to the provisions of this section and subdivision. In the case of primary elections for the nomination of candidates for city, city and county or municipal offices only, the groups of names of candidates may be printed in two parallel columns and the order of precedence shall be determined by the legislative body of such city or municipality or by the board of election commissioners of any such city and county.

6. **Candidates for judicial offices, etc.** The group of candidates for nomination to any judicial office, school office, county office, or township office shall include all the names receiving the requisite number of signatures on a nomination paper for such office, and shall be identical for each such office on the primary election ballots of each political party participating at the primary election; but the groups of names of candidates for all other offices on the ballots of each political party shall comprise only the names of the candidates for nomination by such party.

7. **Order of lists of candidates.** The order in which the list of candidates for any office shall appear upon the primary election ballot shall be determined as follows:

(a) If the office is an office the candidates for which are to be voted on throughout the entire state, including United States senator in congress, the secretary of state shall arrange the names of all candidates for such office in alphabetical order for the first assembly district; and thereafter for each succeeding assembly district, the name appearing first for each office in the last preceding district shall be placed last, the order of the other names remaining unchanged. If the office is that of representative in congress, or is an office the candidates for nomination to which are to be voted on in more than one county or city and county, but not throughout the entire state, except the office of state senator or assemblyman, the secretary of state shall arrange the names of all candidates for such office in alphabetical order for that assembly district which is lowest in numerical order of any assembly district in which such candidates are to be voted on; and thereafter for such succeeding assembly district in which such candidates are to be voted on, the name appearing first for such office in the last preceding district shall be placed last, the order of the other names remaining unchanged. In transmitting to each county clerk or registrar of voters the certified list of names as required in section 10 of this act, the secretary of state shall certify and transmit the list of candidates for nomination to each office according to assembly districts, in the order of arrangement as determined by the above provisions; and in the case of each county or city and county containing more than one assembly district, he shall transmit separate lists for each assembly district. Except for the office of state senator or assemblyman, the order in which the names filed with the secretary of state shall appear upon the ballot, shall be for each assembly district the order as determined by the secretary of state in accordance with the above provisions, and as certified and transmitted by him to each county clerk or registrar of voters.

(b) If the office is an office to be voted on throughout, but wholly within, one county or city and county, except the office of representative in congress or state senator or assemblyman, the county clerk of such county or the registrar of voters of such city and county, shall arrange the names of all candidates for such office in alphabetical order for the first supervisorial district; and thereafter for each supervisorial district, the name appearing first for each such office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged; provided, there are no more than five assembly districts in such county, or city and county. If there are more than five assembly districts in such county, or city and county, the county clerk

or registrar of voters shall so arrange on the ballot the order of names of all candidates for such office that they shall appear in alphabetical order for that assembly district in such county, or city and county, which is lowest in numerical order, and thereafter for each succeeding assembly district in such county, or city and county, the name appearing first for each office in the last preceding assembly district shall be placed last, the order of the other names remaining unchanged.

(c) If the office is that of state senator or assemblyman, or delegate to the state convention from a "hold-over senatorial district," or member of a county central committee, or any office except the office of representative in congress to be voted on wholly within any county or city and county but not throughout such county or city or county, the names of all candidates for such office shall be placed upon the ballot in alphabetical order.

(d) If the office is a municipal office in any city or town whose charter does not provide for the order in which names shall appear on the ballot, the names of candidates for such office shall be placed upon the ballot in alphabetical order.

8. **Order of publication of names and addresses.** In publishing the names and addresses of all candidates for whom nomination papers have been filed, as required in section 10 of this act, the county clerk or registrar of voters shall publish the names in the order in which they will appear upon the ballot; provided, that in counties or cities and counties containing more than one assembly district the order of names of candidates shall be that of the assembly district in such county or city and county which is lowest in numerical order.

9. **Designation of office.** Each group of candidates to be voted on shall be preceded by the designation of the office for which the candidates seek nomination, and the words "Vote for One" or Vote for Two" or more according to the number to be elected to such office at the ensuing election. Such designation of the office to be nominated for and of the number of candidates to be nominated shall be printed in heavy-faced gothic type, not smaller than ten point. The word or words designating the office shall be printed flush with the left-hand margin and the words "Vote for One" or "Vote for Two" or more, as the case may be, shall extend to the extreme right of the column and over the voting square. The designation of the office and the direction for voting shall be separated from the names of the candidates by a light line.

10. **Printing names of candidates. Printing on back of ballot. Perforated line. Number. Form.** The names of the candidates shall be printed on the ballot without indentation, in roman capital type not smaller than eight point, between light lines or rules three-eighths of an inch apart. Under each group of names of candidates shall be printed as many blank spaces, defined by light lines or rules, three-eighths of an inch apart, as there are to be candidates nominated for such office. To the right of the names of the candidates shall be printed a light line or rule so as to form a voting square three-eighths of an inch square. Each group of names of candidates shall be separated from the succeeding group by one light and one heavy line or rule. Each series of groups shall be headed by the word "State," "Congressional," "Legislative,"

"County and Township" or "Municipal" or other proper general classification, as the case may be, printed in heavy-faced gothic capital type, not smaller than twelve point. All official primary election ballots shall have printed on the back and immediately below the center thereof, in eighteen point gothic capital type, the words "Official Primary Election Ballot," and underneath these words the respective numbers of the congressional, senatorial and assembly districts in which each ballot is to be voted. In the case of a primary election for the nomination of candidates for city or city and county offices only, the designations on the back of the ballot in addition to the words "official Primary Election Ballot," shall be the official designation of the respective ward and voting precinct in any such city or municipality, or the number of the assembly district and of the voting precinct in any such city and county in which each ballot is to be voted. The ballot shall be printed on the same leaf with a stub and separated therefrom by a perforated line across the top of the ballot. On each ballot a perforated line shall extend from top to bottom one-half inch from the right-hand side of such ballot, and upon the half-inch strip thus formed there shall be no printing except the number of the ballot which shall be on the back of each strip, in such position that it shall appear on the outside when the ballot is folded. The number on each ballot shall be the same as that on the corresponding stub, and the ballots and stubs shall be numbered consecutively in each county; provided, that the sequence of numbers on such official ballots and stubs for each party shall begin with the number one. The official ballots of each political party shall be made up in stub books, each book to contain ten, or some multiple of ten, ballots, in the manner provided by law for official election ballots, and except as to the order of the names of candidates shall be printed in substantially the following form:

OFFICIAL PRIMARY ELECTION BALLOT

REPUBLICAN PARTY

Forty-Eighth Assembly District, August 25, 1914

To vote for a person whose name appears on the ballot, stamp a cross (X) in the square at the RIGHT of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose.

STATE

Governor — Vote for One
- RICHARD ROE
- HENRY BROWN
- JOHN DOE

Lieutenant Governor — Vote for One
- WILLIAM SMITH
- THOMAS GREEN
- HORACE JONES

Secretary of State — Vote for One
- JOHN TOURTELLOTTE
- ALBERT BERG
- PETER E. MANSON

Controller — Vote for One
- THOMAS THOMPSON
- SAMUEL ALDEN
- WILLIAM DUNN

Treasurer — Vote for One
- HENRY SAMPSON
- A. Y CHILTON
- SAMUEL JOHNSON

Attorney General — Vote for One
- GEORGE P. WILSON
- W. B CURRAN
- THOMAS O'BRIEN

Surveyor General — Vote for One
- FRANK WHEATON
- MICHAEL KERNAN
- JOHN P. WALKER

Member State Board of Equalization, First District — Vote for One
- WILLIAM ADAMS
- HARRY ALLEN

CONGRESSIONAL

United States Senator — Vote for One
- CHARLES K. HART
- WALTER BROWNLOW
- CASSIUS N. CLAY

Representative in Congress 8th District — Vote for One
- PETER PETERSON
- DASTICK BOYLAN
- HENRY HUDSON

LEGISLATIVE

Member Assembly 48th District — Vote for One
- PETER PETERSON
- ANDREW ANDERSON
- GEORGE CAUGHEY

Delegate to State Convention 17th Senatorial District — Vote for One
- WILLIAM E. STOKES
- AMOS STRONG

COUNTY COMMITTEE

Members County Central Committee — Vote for Three
- JOHN T HUNT
- JOSEPH T. JOHNSON
- H. L. MAYNARD
- E. S. MINOR
- H. D ROBINSON
- EDWARD P STEVENS

JUDICIAL

Chief Justice Sup. Court — Vote for One
- WALTER WILTER
- JOSEPH JENNINGS
- THOMAS MERTON

Associate Justice Sup. Ct. — Vote for Two
- WILLIAM BREWER
- ERASTUS PECK
- SAMUEL SNOW
- GEORGE TAWNEY

Judge of the District Court of Appeal, First District — Vote for One
- ANTHONY BRENNAN
- PETER DREW

Judge of the Superior Ct. — Vote for Two
- GEORGE BUNN
- WALTER CAMPBELL
- CHARLES R. DAVIS
- THOMAS McCALL
- ERNEST W ROBERTS

Justice of the Peace — Vote for Two
- THOMAS SULLIVAN
- PETER HEPBURN
- CLAUDE SWANSON

SCHOOL

Supt. of Pub. Instruction — Vote for One
- CHARLES M. STOVER
- FRANK H. KENDALL
- ARTHUR ROBERTS

County Supt. of Schools — Vote for One
- TIMOTHY HEALEY
- J. W. REYNOLDS
- CHARLES CARSON

COUNTY AND TOWNSHIP

Sheriff — Vote for One
- J P DOLLIVER
- CHESTER L LONG
- R. A. ALGER

District Attorney — Vote for One
- A. B KITTREDGE
- JOHN T MORGAN
- E. J. BURKETT

County Clerk — Vote for One
- J. B. MALLORY
- JAMES B. McCREARY
- ASBURY C. LATTIMER

Auditor — Vote for One
- JOHN W. DANIEL
- M. J FOSTER
- JOHN M. PATTERSON.
- J. F. ALLEN
- CLARENCE D CLARK

Treasurer — Vote for One
- FRED T. DU BOIS
- AUGUSTUS O. BACON
- JAMES H. BERRY

Assessor — Vote for Three
- J. S. SPOONER
- E. G. NEWLANDS
- E. W PETTUS

Tax Collector — Vote for One
- KNUTE NELSON
- REDFIELD PROCTOR
- E. W CARMACK

Recorder — Vote for One
- C. M. DE PEW
- CHARLES W FULTON
- THOMAS H. CARTER

Public Administrator — Vote for One
- H. M. TELLER
- J. W BAILEY

Coroner — Vote for One
- JAMES B. FRAZIER
- H. C. LODGE
- W. P. DILLINGHAM

Surveyor — Vote for One
- JOHN F DRYDEN
- J. R. FOSAKER

Supervisor — Vote for One
- G. B. PATTERSON
- THOMAS SPIGHT
- JAMES E. WATSON

Constable — Vote for One
- E. W PARKER
- JOHN A. STERLING

OFFICIAL PRIMARY ELECTION BALLOT

NON-PARTISAN BALLOT

Forty-Eighth Assembly District, August 26, 1914

To vote for a person whose name appears on the ballot, stamp a cross (x) in the square at the RIGHT of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose

JUDICIAL

Chief Justice Sup. Court Vote for One

- WALTER WILTSE
- JOSEPH JENNINGS
- THOMAS MERTON

Associate Justice Sup. Ct. Vote for Two

- WILLIAM BREWER
- ERASTUS PECK
- SAMUEL SNOW
- GEORGE TAWNEY

Judge of the District Court of Appeal, First District Vote for One

- ANTHONY BRENNAN
- PETER DREW

Judge of the Superior Ct. Vote for Two

- GEORGE BUHN
- WALTER CAMPBELL
- CHARLES E. DAVIS
- THOMAS McCALL
- ERNEST W. ROBERTS

Justice of the Peace Vote for Two

- THOMAS SULLIVAN
- PETER MEPBURN
- ELMORE SWANSEN

SCHOOL

Supt. of Pub. Instruction Vote for One

- CHARLES N STOVER
- FRANK H. KENDALL
- ARTHUR ROBERTS

Deputy Supt. of Schools Vote for One

- TIMOTHY HEALEY
- J. W REYNOLDS
- CHARLES CARSON

COUNTY AND TOWNSHIP

Sheriff Vote for One

- J P DOLLIVER
- CHESTER I. LONG
- B. A. ALGER

District Attorney Vote for One

- A. B KITTREDGE
- JOHN T MORGAN
- E. J BURKETT

County Clerk Vote for One

- S. R. MALLORY
- JAMES S. McCREARY
- ASBURY C. LATTIMER

Auditor Vote for One

- JOHN W. DANIEL
- M. J. FOSTER
- JOHN M PATTERSON
- J. F. ALLEN
- CLARENCE D. CLARK

Treasurer Vote for One

- FRED T DU BOIS
- AUGUSTUS O. BACON
- JAMES M. BERRY

Assessor Vote for One

- J. S. SPOONER
- E. G. NEWLANDS
- E. W. PETTUS

Tax Collector Vote for One

- KNUTE NELSON
- REDFIELD PROCTOR
- E. W CARMACK

Recorder Vote for One

- C. M DE PEW
- CHARLES W FULTON
- THOMAS H. CARTER

Public Administrator Vote for One

- B. M. TILLMAN
- J. W BAILEY

Coroner Vote for One

- JAMES B. FRAZIER
- H C. LODGE
- W F. DILLINGHAM

Surveyor Vote for One

- JOHN F DRYDEN
- J. S. FORAKER

Supervisor Vote for One

- G. B PATTERSON
- THOMAS SPIGHT
- JAMES E. WATSON

Constable Vote for One

- B. W PARKER
- JOHN A. STERLING

§ 13. **Sample ballots. Mailed to voters. Printing of official ballot. In cities.** At least twenty days before the August primary election or before the May presidential primary election each county clerk or registrar of voters in any city and county shall prepare separate sample ballots for each political party, and a separate sample nonpartisan ballot, placing thereon in each case in the order provided in subdivision 7 of section 12 of this act, and under the appropriate title of each office, the names of all candidates for whom nomination papers have been duly filed with him, or have been certified to him by the secretary of state, to be voted for at the primary election in his county or city and county. Such sample ballots shall be printed on paper of a different texture from the paper to be used on the official ballot, and one sample ballot of the party to which the voter belongs as evidenced by his registration shall be mailed to each such voter entitled to vote at such August primary election or May presidential primary election, as the case may be, not more than ten nor less than five days before the election. Not more than ten nor less than five days before the August primary election a nonpartisan sample ballot printed on paper of a different texture from the paper to be used on the official ballot shall be mailed to each registered qualified elector who is not registered as intending to affiliate with any of the parties participating in said primary election. Such clerk or registrar of voters shall forthwith submit the ticket of each political party to the chairman of the county committee of such party and shall mail a copy to each candidate for whom nomination papers have been filed with him or whose name has been certified to him by the secretary of state, to the postoffice address as given in such nomination paper or certification, and he shall post a copy of each sample ballot in a conspicuous place in his office. Before such primary election the county clerk or registrar of voters in any city and county shall cause the official ballot to be printed as provided by section 12 of this act, and distributed in the same manner and in the same quantities as provided in sections 1198, 1199 and 1201 of the Political Code for the distribution of ballots for elections; provided, that the number of party ballots to be furnished to any precinct shall be computed from the number of voters registered in such precinct as intending to affiliate with such party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in such precinct without statement of intention to affiliate with any of the parties participating in the primary election. In the case of primary elections for the nomination of candidates for city offices it shall be the duty of the city clerk, secretary of the legislative body of such city or municipality, or such other officer charged by law with the duty of preparing and distributing the official ballots used at elections in such city or municipality, to prepare and mail the sample ballot and to prepare and distribute the official primary election ballots, and so far as applicable and not otherwise provided herein the provisions of this act shall apply to the nomination of all candidates for city offices.

§ 14. **Polls open 6 A. M. to 7 P. M.** The polls must be open at 6 o'clock of the morning of the day of primary election and must be kept open until 7 o'clock in the afternoon of the same day, when the polls

shall be closed; provided, however, that if at the hour of closing there are any voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote. But no one who shall arrive at the polling place after 7 o'clock in the afternoon shall be entitled to vote, although the polls may be open when he arrives. No adjournment or intermission shall be taken except as provided in the case of general elections.

§ 15. **Election officers.** The officers for primary elections shall be the same, and shall be appointed in the same manner, as provided by law for general elections, and such officers shall receive the same compensation for their services at primary elections as provided by law for general elections.

It shall be the duty of the proper officers to furnish the original affidavits of registration and indexes for use at primary elections, which shall show the names of all voters entitled to vote at such primary elections, and shall be numbered, for purposes of the primary election, in like manner as provided in section 1113 of the Political Code. And all the provisions of section 1096 of the Political Code, as far as they are consistent with the provisions of this act, are hereby made applicable to primary elections within the meaning of this act.

§ 16. **Challenge of voter.** Any elector offering to vote at a primary election may be challenged by any elector of the city, city and county or county, upon either or all of the grounds specified in section 1230 of the Political Code, but his right to vote the primary election ticket of the political party designated in his affidavit of registration, as provided in section 1096 of the Political Code, or his right to vote the nonpartisan primary ticket providing no such party is so designated, shall not be challenged on any ground or subjected to any tests other than those provided by the constitution and section 1230 of the Political Code of this state.

§ 17. **Qualified electors may vote.** Any elector qualified to take part in any primary election, who has, at least thirty days before the day of such primary election, qualified by registration, as provided by section 1096 of the Political Code, shall be entitled to vote at such primary election, such right to vote being subject to challenge only as hereinbefore provided; and shall, on writing his name or having it written for him on the roster, as provided by law for general elections in this state, receive the official primary election ballot of the political party designated in his affidavit of registration; (or the nonpartisan ballot, providing no such party was so designated), and no other; provided, however, that no one shall be entitled to vote at any primary election who has not been a resident of the state one year, and of the county ninety days, preceding the day upon which such primary election is held. He shall be instructed by a member of the board as to the proper method of marking and folding his ballot, and he shall then retire to an unoccupied booth and without undue delay stamp the same with the rubber stamp there found. If he shall spoil or deface the ballot he shall at once return the same to the ballot clerk and receive another.

§ 18. **Designating choice.** The voter shall designate his choice on the ballot by stamping a cross (×) in the small square opposite the name of each candidate for whom he wishes to vote. If he shall stamp more names than there are candidates to be nominated for any office, or if for any reason it be impossible to determine his choice for any office, his ballot shall not be counted for such office, but the rest of his ballot, if properly stamped, shall be counted. No ballot shall be rejected for any technical error which does not render it impossible to determine the voter's choice, nor even though such ballot be somewhat soiled or defaced.

§ 19. **Folding ballot.** When a voter has stamped his ballot he shall fold it so that its face shall be concealed and only the printed designation on the back thereof shall be visible, and hand the same to the member of the board in charge of the ballot-box. Such folded ballot shall be voted as ballots are voted at general elections, and the name of the voter checked upon the affidavit of registration as having voted as is required at such general elections. [Amendment approved May 29, 1917; Stats. 1917, p. 1354.]

§ 20. **No intermission between closing of polls and counting of votes.** No adjournment or intermission whatever shall take place until the polls shall be closed and until all the votes cast at such polls shall be counted and the result publicly announced, but this shall not be deemed to prevent any temporary recess while taking meals or for the purpose of other necessary delay; provided, that no more than one member of the board shall at any time be absent from the polling place.

§ 21. **Canvass of votes.** As soon as the polls are finally closed the judges must immediately proceed to canvass the votes cast at such primary election. The canvass must be public, in the presence of bystanders, and must be continued without adjournment until completed and the result thereof declared. Except as hereinafter provided, the canvass shall be conducted, completed and returned as provided by sections 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1264*a*, 1265, 1266, 1267, 1268 of the Political Code of this state; provided, however, that the ballots of each party must be sealed and returned in separate envelopes, and the nonpartisan ballots must be sealed and returned in another separate envelope. The number of ballots agreeing or being made to agree with the number of names on the lists, as provided by section 1255 of the Political Code, the board must take the ballots from the box, count those cast by each party, and string them separately; count all the votes cast for each party candidate for the several offices and record the same on the tally lists; and count all the votes on all the ballots, both party and nonpartisan, for the candidates for judicial, school, county, township, and municipal offices, and record the same on the tally lists. [Amendment approved May 29, 1917; Stats. 1917, p. 1354.]

§ 22. **Canvass of returns. Declaration of result. Returns to secretary of state. Secretary of state to compile returns.** The board of

supervisors of each county, the board of election commissioners in any city and county, or, in the case of a city or municipal primary election, the officers charged by law with the duty of canvassing the vote at any city or municipal election in such political subdivision, shall meet at the usual place of such meeting, or at any other place permitted by law, at one o'clock in the afternoon of the first Thursday after each primary election to canvass the returns, or as soon thereafter as all the returns are in. When begun the canvass shall be continued until completed, which shall not be later than six o'clock in the afternoon of the sixteenth day following such primary election. The clerk of the board must, as soon as the result is declared, enter upon the records of such board a statement of such result, which statement shall contain the whole number of votes cast for each candidate of each political party, for each candidate for each judicial, school, county, township, or municipal office, for each candidate for delegate, if any, to a state convention from a hold-over senatorial district, and for each candidate for membership in the county central committee; provided, however, that in entering the statement of such result, the provisions of subdivision six of section 1282 of the Political Code shall apply, and a duplicate as to each political party shall be delivered to the county, city and county or city chairman of such political party, as the case may be. The clerk shall also make an additional duplicate statement in the same form showing the votes cast for each candidate not voted for wholly within the limits of such county or city and county. The county clerk or registrar of voters in any city and county shall forthwith send to the secretary of state by registered mail or by express one complete copy of all returns as to such candidates, and as to all candidates voted for wholly within one county for the following offices: State assembly, state senate, representatives in congress, members of the state board of equalization, judicial officers, except justices of the peace, and delegate, if any, to a state convention from a hold-over senatorial district; and as to all persons voted for at the May presidential primary election. The secretary of state shall, not later than the twenty-fifth day after any primary election, compile the returns for all candidates voted for in more than one county, and for all candidates for the assembly, state senate, representatives in congress, member of the state board of equalization, and judicial offices (except justices of the peace), delegate, if any, to a state convention from a hold-over senatorial district, and for all persons voted for at the May presidential primary election, and shall make out and file in his office a statement thereof. He shall compile the returns for the May presidential primary election not later than the twenty-first day after such election, and shall compile said returns in such a manner as to show, for each candidate, both the total of the votes received and the votes received in each congressional district of the state. [Amendment approved May 29, 1917; Stats. 1917, p. 1355.]

§ 23. **Names which go on ballot for final election. In case of judicial office, etc. Certificates of nomination. List of persons entitled to receive votes.** Except in the case of a candidate for nomination to a judicial, school, county, township, or municipal office, the person receiv-

ing the highest number of votes, at a primary election as the candidate for the nomination of a political party for an office shall be the candidate of that party for such office, and his name as such candidate shall be placed on the official ballot voted at the ensuing election; provided, he has paid the filing fee as required by section seven of this act; and provided, further, that no candidate for a nomination for other than a judicial, school, county, township or municipal office who fails to receive the highest number of votes for the nomination of the political party with which he was affiliated thirty-five days before the date of the primary election, as ascertained by the secretary of state from the affidavit of registration of such candidate in the office of the county clerk of the county in which such candidate resides, shall be entitled to be the candidate of any other political party.

In the case of a judicial, school, county, township, or municipal office, the candidates equal in number to twice the number to be elected to such office, or less, if the total number of candidates is less than twice the number of offices to be filled, who receive the highest number of votes cast on all the ballots of all the voters participating in the primary election for nomination to such office, shall be the candidates for such office at the ensuing election, and their names as such candidates shall be placed on the official ballot voted at the ensuing election; provided, however, that in case there is but one person to be elected at the November election to any judicial, school, county, or township office, any candidate who receives at the August primary election a majority of the total number of votes cast for all the candidates for such office shall be the only candidate for such office whose name shall be printed on the ballot at the ensuing election; and provided, further, that in case there are two or more persons to be elected at the November election to any judicial, school, county, or township office, and in case any candidate for such office receive at the August primary election the votes of a majority of all the voters participating in the primary election in the state or political subdivision in which said office is voted upon, such candidates being herein designated as "majority candidates," said "majority candidates" shall, if their number is not less than the number of persons to be elected to such office, be the only candidates for such office whose names shall be printed on the ballot at the ensuing November election; and if the number of such "majority candidates" falls short of the number of persons to be elected to such office, the names of said "majority candidates" shall be printed on the ballot at the ensuing November election, together with such number of additional names only of such other candidates receiving the next highest number of votes for nomination to such office as may make the number of such additional names equal to twice the difference between the number of such "majority candidates" and the number to be elected, or a smaller number, if the list of said other candidates is exhausted. Of the candidates for election to membership in the county central committee, the candidates equal in number to the number to be elected receiving the highest number of votes in their supervisorial district or assembly district, as the case may be in accordance with the provisions of subdivision four of section twenty-four of this act, shall be declared elected as the representatives of their district to membership in such commit-

tee. It shall be the duty of the officers charged with the canvass of the returns of any primary election in any county, city and county or municipality to cause to be issued official certificates of nomination to such party candidates (other than congressional and legislative candidates, candidates for the state board of equalization, and delegates to the state convention from a hold-over senatorial district), as have received the highest number of votes as the candidates for the nomination of such party for any offices to be voted for wholly within such county, city and county, or municipality, and cause to be issued to each member of a county central committee a certificate of his election; and to cause to be issued official certificates of nomination to such candidates for judicial, school, county, township or municipal offices voted for wholly within one county as may be entitled to nomination under the provisions of this section. It shall be the duty of the secretary of state to issue official certificates of nomination to candidates nominated under the provisions of this act for representatives in congress, members of the state senate and assembly, members of the state board of equalization, and officers voted for in more than one county; and to issue a certificate of election to each delegate elected to the state convention from a hold-over senatorial district; and to issue certificates of election to all persons elected at the May presidential primary election as delegates to their respective national party conventions.

Not less than thirty days before the November election the secretary of state shall certify to the county clerks or registrars of voters of each county and city and county within the state, the name of every person entitled to receive votes within such county or city and county at said November election who has received the nomination as a candidate for public office under and pursuant to the provisions of this act, and whose nomination is evidenced by the compilation and statement required to be made by said secretary of state and filed in his office, as provided in section 22 of this act. Such certificates shall in addition to the names of such nominees respectively, also show separately and respectively for each nominee the name of the political party or organization which has nominated such person if any and the designation of the public office for which he is so nominated. [Amendment approved May 29, 1917; Stats. 1917, p. 1356.]

§ 24. Party conventions. 1. Party conventions of delegates chosen as hereinafter provided may be held in this state, for the purpose of promulgating platforms and transacting such other business of the party as is not inconsistent with the provisions of this act.

2. **State conventions. Platforms. State central committee. Presidential electors. Members must have been on primary ballot. In district represented by hold-over senator. Filling vacancies.** The candidates of each political party for congressional offices and for state offices, if any, except judicial and school offices, and such candidates for senate and assembly as have been nominated by such political party at the primary election, and in whose behalf nomination papers have been filed, together with the hold-over senators affiliated with and nominated by such politi-

cal party at the election at which said hold-over senators were elected and one delegate chosen by such political party from each senatorial district not represented by a hold-over senator affiliated with and nominated by such political party at the election at which the hold-over senator was elected, shall meet in a state convention at the state capitol at two o'clock in the afternoon of the third Tuesday in September after the date on which any primary election is held preliminary to the general November election. They shall forthwith formulate the state platforms of their party, which said state platform of each political party shall be framed at such time that it shall be made public not later than six o'clock in the afternoon of the following day. They shall also proceed to elect a state central committee to consist of at least three (3) members from each congressional district, who shall hold office until a new state central committee shall have been selected. In each year of the general November election at which electors of President and Vice-president of the United States are to be chosen, they shall also nominate as the candidates of their party as many electors of President and Vice-president of the United States as the state is then entitled to, and it shall be the duty of the secretary of state to issue certificates of nomination to the electors so nominated, and to cause the names of such candidates for elector to be placed upon the ballots at the ensuing November election.

Membership in the state convention shall not be granted to a party nominee for a congressional office, state office, or office of senator or assemblyman who has become such by reason of his name having been written on a ballot, and who has not had his name printed on the primary ballot by having had a nomination paper filed in his behalf, as provided in section 5 of this act; nor shall membership in such convention be granted to the nominee of any party if such nominee has not stated his affiliation with such party in his affidavit of registration used at such primary election; and, in every such case, a vacancy in the membership of such convention shall be deemed to exist; and any such vacancy thereby existing, or existing because no nomination for such office has been made, or for any other cause, shall be filled as hereinafter provided. Each candidate who has received the nomination of more than one party for a congressional, state, or legislative office shall procure from the county clerk of the county in which he resides, a certificate stating the party with which such candidate was affiliated thirty-five days before the date of the primary election, as shown by the affidavit of registration of such candidate in the office of such county clerk; and this certificate shall be in credentials of such candidate to membership in the convention of his party.

In any senatorial district represented by a hold-over senator there shall be chosen at such primary election by the electors of each political party, other than the party which the hold-over senator was affiliated with and nominated by, one delegate to the state convention, who shall have nomination papers circulated in his behalf, shall have his name placed upon the ballot, and shall be chosen in the same manner as a state senator is nominated from any senatorial district; but no such delegate shall be disqualified by reason of holding any office, nor shall any

filing fee be required in order to have his name placed upon the ballot. The term "hold-over senator" as herein used shall apply to a state senator whose term of office extends beyond the first Monday in January of the year next ensuing after the primary election, and the term "hold-over senatorial district" shall apply to the district represented by such hold-over senator.

In the event that there shall not have been filed any nomination paper for a candidate for any congressional or state office or office of senator or assemblyman or delegate from a hold-over senatorial district by the electors of any political party, or in the event that the nominee of any party for such office has not declared his affiliation with such party, as herein provided, or in the event of the death of the candidate prior to the convention, the vacancy thus created in the state convention of such party shall be filled as follows:

(a) If the vacancy occurs in a senatorial or assembly district situated wholly within the limits of a single county or city and county, by appointment by the newly elected county central committee of such party in such county or city and county.

(b) If the vacancy occurs in a senatorial or assembly district comprising two or more counties, by appointment by the newly selected chairmen of the several newly elected county central committees of such party in such counties.

(c) If the vacancy occurs in a congressional or state office, by appointment by the state central committee of such party.

Such delegate so appointed shall present to the convention credentials signed by the chairman and the secretary of the appointing committee, or by the appointing chairmen of the several committees, as the case may be.

3. **Executive committee.** Each state central committee may select an executive committee, to which executive committee it may grant all or any portion of its powers and duties. It shall choose its officers by ballot and each committee and its officers shall have the power usually exercised by such committees and the officers thereof in so far as may be consistent with this act. The various officers and committees now in existence shall exercise the powers and perform the duties herein prescribed until their successors are chosen in accordance with the provisions of this act.

4. **County central committee. Meetings.** At each August primary election there shall be elected in each county or city and county a county central committee for each political party, which shall have charge of the party campaign under general direction of the state central committee or of the executive committee selected by such state central committee. In any city and county containing more than ten assembly districts the county central committee of such party shall be elected by each assembly district and shall consist of five members from each assembly district in such city and county. In all counties containing five or more assembly districts the county central committee of such party shall be elected by assembly districts and shall consist of one member for each seven hundred votes or fraction thereof in each such assembly district cast for such party's candidate for governor at the last

general election at which a governor was elected. In all counties containing less than five assembly districts the county central committee shall be elected by supervisor districts, and the number to be elected from any supervisor district shall be determined as follows: the number of votes cast in such supervisor district for such party's candidate for governor at the last general election at which such governor was elected shall be divided by one-twentieth of the number of votes cast for such governor in such county; and the integer next larger than the quotient obtained by such division shall constitute the number of members of the county central committee to be elected by such party in said supervisor district. The county clerk or registrar of voters in each county or city and county shall, between the first Monday and the second Monday of June next preceding the primary election, compute the number of members of the county central committee allotted to each assembly district or supervisor district, as the case may be, by the provisions of this subdivision. Each candidate for member of a county central committee shall appear upon the ballot upon the filing of a nomination paper according to the provisions of section five of this act, signed in his behalf by the electors of the political subdivision in which he is a candidate, as above provided; and the number of candidates to which each party is entitled, as hereinbefore provided, in each political subdivision, receiving the highest number of votes shall be declared elected. Each county central committee shall meet in the court house at its county seat on the second Tuesday in September following the August primary election, and shall organize by selecting a chairman, a secretary and such other officers and committees as it shall deem necessary for carrying on the campaign of the party. [Amendment approved May 29, 1917; Stats. 1917, p. 1358.]

§ 25. **Withdrawing as candidate. Filing vacancies. Name printed on ballot.** No candidate whose nomination papers have been filed for any primary election can withdraw as a candidate at such primary election. No candidate nominated at any primary election can withdraw as a candidate at the ensuing general election except such as are permitted to withdraw by this section. In case as a result of any primary election a person has received a nomination to any office without first having nomination papers filed, and having his name printed on the primary election ballot, he may at least thirty-one days before the day of election cause his name to be withdrawn from nomination by filing in the office where he would have filed his nomination papers had he been a candidate for nomination, his request therefor in writing, signed by him and acknowledged before the county clerk of the county in which he resides; and no name so withdrawn shall be printed on the election ballot for the ensuing general election. The vacancy created by the withdrawal of such person as aforesaid, or on account of the ineligibility of such person to qualify as a candidate because of the inhibitions of subdivision 9 of section 5 of this act or of section 23 of this act, or by reason of the failure of a party to nominate any candidate for the office at the primary election, or for any other cause except the death of the candidate occurring after the primary election, shall not be filled. A vacancy by reason of the death of any candidate occurring

after the holding of any primary election may be filled by the party committee of the city, county, city and county, or state, as the case may be, unless such vacancy occurs among candidates chosen at the primary election to go on the ballot for the succeeding general election for a judicial, school, county, township, or municipal office according to the provisions of section 23 of this act, in which case that candidate receiving at said primary election the highest vote among all the candidates for said office who have failed to receive a sufficient number of votes to get upon said ballot according to the provisions of said section 23, shall go upon said ballot to fill said vacancy; provided, however, that if the vacancy occurs in a case where, by reason of having received a majority vote at the primary election, only one person is entitled to have his name printed upon the ballot at the ensuing November election, the names of the two candidates receiving the next highest vote at the primary election, if there were such number, shall be placed upon the ballot for the November election; and provided, further, that a vacancy authorized to be filled by the provisions of this section shall only be so filled if such person has died and such vacancy has been filled and certified to the officer charged with the duty of printing the ballots twenty-five days before the day of election.

Whenever a nomination paper containing a sufficient number of signatures has been filed for any person as a candidate to be voted for at a primary election, the name of such person must be printed upon the ballot or ballots of such primary election as hereinbefore provided in section 12 of this act, unless such person has died and such fact has been ascertained, by the officer charged with the duty of printing the ballot, at least twenty-five days before the day of election.

Whenever a candidate has been nominated at any primary election after having nomination papers filed, the name of such candidate must be printed upon the ballot at the ensuing general election unless such candidate has died and such fact has been ascertained, by the officer charged with the duty of printing the ballots, at least twenty-five days before the day of election.

Whenever, upon the death of any candidate, the vacancy thereby created is filled by a party committee, a certificate to that effect shall be filed with the officer with whom a nomination paper for such office of such nomination paper. [Amendment approved May 29, 1917; Stats. 1917, p. 1361.]

§ 26. **Tie vote.** In case of a tie vote, if for an office to be voted for wholly within one county or city and county, the county, city and county or city board, as the case may be, shall forthwith summon the candidates who have received such tie votes to appear before such board, and such board in the presence of such candidates shall determine the tie by lot. In the case of a tie vote for an office to be voted for in more than one county, such tie shall be determined by lot by the secretary of state in the presence of the candidates or their legally appointed representatives. Such summons must in every case be mailed to the address of the candidate as it appears upon his affidavit of registration.

§ 27. **Correction of errors or omission.** Whenever it shall be made to appear by affidavit to the supreme court or district courts of appeal or

superior court of the proper county that an error or omission has occurred or is about to occur in the placing of any name on an official primary election ballot, that any error has been or is about to be committed in printing such ballot, or that any wrongful act has been or is about to be done by any judge or clerk of a primary election, county clerk, registrar of voters in any city and county, canvassing board or any member thereof, or other person charged with any duty concerning the primary election, or that any neglect of duty has occurred or is about to occur, such court shall order the officer or person charged with such error, wrong or neglect to forthwith correct the error, desist from the wrongful act or perform the duty, or forthwith show cause why he should not do so. Any person who shall fail to obey the order of such court shall be cited forthwith to show cause why he shall not be adjudged in contempt of court.

§ 28. **Contest of nomination. Copy of affidavit mailed to contestee. Precincts considered. Hearing. No demurrer. Additional judges. Recount of votes. Decision. No appeal.** Any candidate at a primary election, desiring to contest a nomination of another candidate for the same office, may, within five days after the completion of the official canvass, file an affidavit in the office of the clerk of the superior court of the county in which he desires to contest the vote returned from any precinct or precincts in such county, and thereupon have a recount of the ballots cast in any such precinct or precincts, in accordance with the provisions of this section. Such affidavit must specify separately each precinct in which a recount is demanded, and the nature of the mistake, error, misconduct, or other cause why it is claimed that the returns from such precinct do not correctly state the vote as cast in such precinct, for the contestant and the contestee. The contestee must be made a party respondent, and so named in the affidavit. No personal service or other service than as herein provided need be made upon the contestee. Upon the filing of such affidavit the county clerk shall forthwith post in a conspicuous place in his office a copy of the affidavit. Upon the filing of such affidavit and the posting of the same, the superior court of the county shall have jurisdiction of the subject matter and of the parties to such contest, and all candidates at any such primary election are permitted to be candidates under this act, only upon the condition that such jurisdiction for the purposes of the proceeding authorized by this section shall exist in the manner and under the conditions provided for by this section. The contestant on the date of filing such affidavit, must send by registered mail a copy thereof to the contestee in a sealed envelope, with postage prepaid, addressed to the contestee at the place of residence named in the affidavit of registration of such contestee, and shall make an affidavit of such mailing and file the same with the county clerk to become a part of the records of the contest. At any time within three days after the filing of the affidavit of the contestant to the effect that he has sent by registered mail a copy of the affidavit to the contestee, such contestee may file with the county clerk an affidavit in his own behalf, setting up his desire to have the votes counted in any precincts, designating them, in addition to the precincts designated in the affidavit of the contestant, and setting up his grounds therefor. On the trial of

the contest all of the precincts named in the affidavits of the contestant and the contestee shall be considered, and a recount had with reference to all of said precincts; and the contestant shall have the same right to answer the affidavit of the contestee as is given to the contestee herein with reference to the affidavit of the contestant except that such answer must be filed not later than the first day of the trial of said contest. On the eighth day after the completion of the official canvass the county clerk shall present the affidavits of the contestant and the contestee and proof of posting, as aforesaid, to the judge of the superior court of the county, or any judge acting in his place, or the presiding judge of the superior court of a county or city and county, or anyone acting in his stead, which judge shall, upon such presentation, forthwith designate the time and place where such contest shall proceed, and in counties or cities and counties where there is more than one superior judge, assign all the cases to one department by the order of such court. Such order must so assign such case or cases, and fix such time and place for hearing, which time must not be less than one nor more than three days from the presentation of the matter to the court by the county clerk as herein provided. It shall be the duty of the contestee to appear either in person or by attorney, at the time and place so fixed, and to take notice of the order fixing such time and place from the records of the court, without service. No special appearance of the contestee for any purpose except as herein provided shall be permitted, and any appearance whatever of the contestee or any request of the court by the contestee or his attorney, shall be entered as a general apparance in the contest. No demurrer or objection can be taken by the parties in any other manner than by answer, and all the objections must be contained in the answer. The court if the contestee shall appear, must require the answer to be made within three days from the time and place as above provided, and if the contestee shall not appear shall note his default, and shall proceed to hear and determine the contest with all convenient speed. If the number of votes which are sought to be recounted, or the number of contests are such that the judge shall be of opinion that it will require additional judges to enable the contest or contests to be determined in time to print the ballots for the election, if there be only one judge for such county, he may obtain the service of any other superior judge, and the proceedings shall be the same as herein provided in counties where there is more than one superior court judge. If the proceeding is in a county or city and county where there is more than one superior court judge, the judge to whom the case or cases shall be assigned, shall notify the presiding judge forthwith, of the number of judges which he deems necessary to participate, in order to finish the contest or contests in time to print the ballots for the final election, and the said presiding judge shall forthwith designate as many judges as are necessary to such completion of such contest, by order in writing, and thereupon all of the judges so designated shall participate in the recount of such ballots and the giving of judgment in such contest or contests in the manner herein specified. The said judges so designated by said last-mentioned order, including the judge to whom said contests were originally assigned, shall convene upon notice from the judge to whom

such contest or contests were originally assigned, and agree upon the precincts which each one of such judges will recount, sitting separately, and thereupon such recount shall proceed before each such judge sitting separately, as to the precincts so arranged, in such manner that the recount shall be made in such precincts before each such judge as to all the contests pending, so that the ballots opened before one judge need not be opened before another judge or department, and the proceedings before such judge in making such recount as to the appointment of the clerk and persons necessary to be assistants of the court in making the same, shall be the same as in contested elections, and the judge shall fix the pay or compensation for such persons, and require the payment each day in advance of the amount thereof, by the person who is proceeding with and requiring the recount of the precinct being recounted. When the recount shall have been completed in the manner herein required, if more than one judge has taken part therein, all the judges who took part shall assemble and make the decision of court, and if there be any differences of opinion, a majority of such judges shall finally determine all such questions, and give the decision or judgment of the court in such contest or contests, separately. Such decision or judgment of the court shall be final in every respect, and no appeal can be had therefrom. The judgment shall be served upon the county clerk or registrar of voters by delivery of a certified copy thereof, and may be enforced summarily in the manner provided in section twenty-seven of this act, and if the contest proceeds in more than one county, and the nominee is to be certified by the secretary of state from the compilation of election returns in his office, then the judgment in each county in which a contest may be had shall show what, if any changes in the returns in the office of the secretary of state relating to such county or city and county, ought to be made, and all such judgments shall be served upon the secretary of state, by the delivery of a certified copy, and he shall make such changes in the record in his office as such judgment or judgments require, and conform his compilation and his certificate of nomination in accordance therewith. If the office contested is one to be voted upon in more than one county, the time within which such contest may be brought in any county involved shall begin to run at the time of the declaration of the official canvass by the board of supervisors of the county last making such declaration. [Amendment approved May 29, 1917; Stats. 1917, p. 1363.]

§ 29. **Campaign expenses.** No candidate for nomination to any elective office, including that of United States senator in congress, shall directly or indirectly pay, expend or contribute any money or other valuable thing, or promise so to do, except for lawful expenses. Lawful expenses as used in this section are limited to expenses for the following purposes only:

1. For the candidate's official filing fee.

2. For the preparing, printing, circulating, and verifying of nomination papers.

3. For the candidate's personal traveling expenses.

4. For rent and necessary furnishing of halls or rooms, during such candidacy, for public meetings or for committee headquarters.

5. For payment of speakers and musicians at public meetings and their necessary traveling expenses.

6. For printing and distribution of pamphlets, circulars, newspapers, cards, handbills, posters and announcements relative to candidates or political issues or principles.

7. For his share of the reasonable compensation of challengers at the polls.

8. For making canvassers of voters.

9. For clerk hire.

10. For conveying infirm or disabled voters to and from the polls.

11. For postage, expressage, telegraphing, and telephoning, relative to candidacy.

§ 30. **Campaign expenses.** Every person who shall be a candidate for nomination to any elective office shall make in duplicate, within fifteen days after the primary election, a verified statement, setting forth each and every sum of money contributed, disbursed, expended or promised by him, and, to the best of his knowledge and belief, by any and every other person or association of persons in his behalf wholly or partly in endeavoring to secure his nomination. This statement must show in detail all moneys paid, loaned, contributed, or otherwise furnished to him directly or indirectly in aid of his nomination, together with the name of the person or persons from whom such moneys were received; and must also show in detail, under each of the subdivisions of section 29 of this act, all moneys contributed, loaned, or expended by him directly or indirectly by himself or through any other person, in aid of his nomination, together with the name of the person or persons to whom such moneys were paid, or disbursed. Such statement must set forth that the affiant has used all reasonable diligence in its preparation, and that he same is true and is as full and explicit as he is able to make it. Within the time aforesaid the candidate shall file one copy of said statement with the officer with whom his nomination papers were filed, and the other with the recorder of the county or city and county in which he resides, who shall record the same in a book to be kept for that purpose, and to be open to public inspection. No officer shall issue any certificate of nomination to any person until such statement as herein provided has been filed and no other statement of expenses shall be required except that provided herein, and no fee or charge whatsoever shall be made or collected by any officer for the verifying, filing, or recording of such statements or a copy thereof. [Amendment approved May 29, 1917; Stats. 1917, p. 1365.]

§ 31. **Penalty.** Any person violating any of the provisions of section 29 or section 30 of this act shall be guilty of a misdemeanor, and upon trial and conviction thereof, in addition to the sentence imposed by the court, he shall forfeit all right to the office for which he was a candidate at the time of violating the provisions aforesaid.

§ 32. **Bribes. Penalty.** 1. Any person who shall offer, or with knowledge of the same permit any person to offer for his benefit, any bribe to a voter to induce such voter to sign any nomination paper, and any person who shall accept such bribe or any promise of gain of any kind in

the nature of a bribe as consideration for signing any nomination paper, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after signing, shall be guilty of a misdemeanor and upon trial and conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than one hundred and twenty days, or by both such fine and imprisonment.

2. **Failure to file nomination papers.** Any person who, being in possession of any nomination paper or papers and affidavits entitled to be filed under the provisions of this act, shall wrongfully either suppress, neglect or fail to cause the same to be filed at the proper time and in the proper place shall be guilty of a misdemeanor, and upon trial and conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

3. **Other offenses.** Any act or omission declared to be an offense by the general laws of this state concerning primaries and elections shall also in like case be an offense concerning primary elections as provided for by this act, and shall be punished in the same manner and form as therein provided, and all the penalties and provisions of the law governing elections, except as herein otherwise provided, shall apply in equal force to primary elections as provided for by this act.

§ 33. **Preparation of forms.** It shall be the duty of the secretary of state and the attorney general to prepare on or before September 1, 1917, all forms necessary to carry out the provisions of this act, which forms shall be substantially followed in all primary elections held in pursuance hereof. [Amendment approved May 29, 1917; Stats. 1917, p. 1366.]

§ 34. **Title of act.** This act shall be known as the direct primary law.

§ 35. **Constitutionality of act.** If any section, subdivision, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subdivisions, sentences, clauses, or phrases be declared unconstitutional.

§ 36. **Repeal.** The act approved April 7, 1911, known as the direct primary law, and also the act approved December 24, 1911, amending sections 1, 3, 5, 7, 10, 12, 13, 22, 23, and 24 of the said direct primary law, are hereby repealed; and all other acts or parts of acts, inconsistent with or in conflict with the provisions of this act, are also hereby repealed.

ACT 1010a.

An act making an appropriation to pay the expenses of electors of President and Vice-President of the United States of America.

[Approved January 18, 1917. Stats. 1917, p. 1. In effect immediately.]

The act appropriated $900 for the purpose indicated.

TITLE 163.

ELECTRICITY.

ACT 1025.

An act to regulate the construction and maintenance of subways, manholes, and underground rooms, chambers, and excavations, used to contain, encase, cover, or conduct wires, cables, or appliances to conduct, carry, or handle electricity, and providing the punishment for the violation thereof.

[Approved April 22, 1911. Stats. 1911, p. 1042.]

Amended 1917, p. 801.

The amendment of 1917 follows:

§ 1. **Regulation of.** No commission, officer, agent, or employee of the state of California or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation, shall build or rebuild or cause to be built or rebuilt within the state of California:

(a) **Dimensions of electric wire subways.** Any subway, manhole, chamber, or underground room used or to be used to contain, encase, cover or conduct any wire, cable, or appliance, to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room shall have an inside measurement of not less than four feet at the maximum points between the side walls thereof, and between the end walls thereof, and not less than five feet at all points between the floor thereof, and the top or ceiling thereof, or if circular in shape, at least four feet diameter inside measurement, and not less than five feet at all points between the floor and ceiling thereof; provided, however, that this paragraph shall not be held to apply to any such subway, manhole, chamber or underground room, within which it is not intended or required that any human being perform work or labor or be employed; further provided, that the provisions of this paragraph (a) shall not be held to apply where satisfactory proof shall be submitted to the railroad commission of the state of California, that it is impracticable or physically impossible to comply with this law within the space or location so designated by the proper municipal authorities.

(b) **Opening to outer air.** In any subway, manhole, chamber or underground room used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening to outer air which is less than twenty-six inches if circular in shape, or less than twenty-four inches by twenty-six inches clear measurement if rectangular in shape.

(c) **Openings to be not less than three feet from street-car track.** In any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening which is at the surface of the ground, within the distance of three feet at any point

from the rail of any railway or street-car track; provided, that the provisions of this paragraph (c) shall not be held to apply where satisfactory proof shall be submitted to the railroad commission of the state of California, that it is impracticable or physically impossible to comply with this law in the space or location so designated by the proper municipal authorities.

(d) **Floor of subway to be of concrete, etc.** Any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable, or appliance to conduct, carry, or handle electricity, unless the floor of such subway, manhole, chamber or underground room is made of stone, concrete brick or other similar material not subject to decomposition; provided, that this paragraph (d) shall not be held to apply to any such subway, manhole, chamber or underground room within which it is not intended or required that any human being perform work or labor or be employed.

(e) **Subways to be kept free from seepage.** Or maintain any subway, manhole, chamber or underground room used, or to be used, to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room is kept at all times in a sanitary condition, and free from stagnant water, or seepage, or other drainage, or any offensive matter dangerous to health, either by sewer connection or otherwise; provided, that this paragraph (e) shall not be held to apply to any such subway, manhole, chamber or underground room, within which it is not intended or required that any human being perform work or labor, or be employed. [Amendment approved May 22, 1917; Stats. 1917, p. 801.]

§ 2. **Penalty for violation.** Any violation of any provision of this act shall be deemed a misdemeanor, and shall be punishable upon conviction by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment. [Amendment approved May 22, 1917; Stats. 1917, p. 802.]

§ 5. **Power of railroad commission.** The railroad commission of the state of California is hereby vested with authority and power to inspect all work which is included in the provisions of this act, and to make such further additions or changes as said commission may deem necessary for the purpose of safety to employees and the general public, and the said railroad commission is hereby charged with the duty of seeing that all the provisions of this act are properly enforced. [New section added May 22, 1917; Stats. 1917, p. 802.]

TITLE 164.

ELEVATORS.

ACT 1025b.

An act to provide for the periodical inspection of elevators operated in places of employment in this state; to require a permit for such operation; to make it a misdemeanor to operate such elevator without such permit; and to provide for an injunction against such operation if dangerous to the life or safety of employees; to vest in the industrial accident commission the power to make such inspections

and determine the competency of inspectors and require reports of inspections and to issue such permits and prescribe maximum fees therefor.

[Approved April 6, 1917. Stats. 1917, p. 84. In effect July 27, 1917.]

§ 1. Permit to operate elevator. Injunction to restrain operation without permit. No power elevator or hand-power elevator, unless exempted in the following section, shall be operated in any place of employment in this state unless a permit, as hereinafter provided, for the operation thereof, shall have been issued by the industrial accident commission, and unless such permit shall remain in full force and effect. The operation of such elevator by any person owning or having the custody, management or operation of such elevator without such permit shall constitute a misdemeanor, and each day of operation of such elevator without such permit shall constitute a separate offense; provided, that no prosecution shall be maintained where the issuance or renewal of such permit shall have been requested and shall remain unacted upon. Whenever any elevator in any place of employment is being operated without the permit herein required, and is in such condition that its use is dangerous to the life or safety of any employee, the industrial accident commission, a commissioner or any safety inspector thereof, or any person affected thereby may apply to the superior court of the county in which such elevator is located for an injunction restraining the operation of such elevator until such condition shall be corrected. Proof by certification of the said commission that such permit has not been issued, together with the affidavit of any safety inspector of the commission that the operation of such elevator is dangerous to the life or safety of any employee, shall be sufficient ground for the immediate granting of a temporary restraining order.

§ 2. Exemptions. Elevators under the jurisdiction of the United States government, and all elevators operated by employers not subject to the safety provisions of the workmen's compensation, insurance and safety act of 1917 and acts amendatory thereof, are exempted from the provisions of this act.

§ 3. Inspection of elevators. Order for repairs. Temporary permit to operate. The industrial accident commission shall cause power elevators to be inspected, not less frequently than twice each year and hand-power elevators not less frequently than once each year. If such elevators shall be found upon such inspection to be in a safe condition for operation, a permit shall be issued by said commission for their operation for not longer than six months for a power elevator or longer than one year for a hand-power elevator, which shall be the permit referred to in section one. If such inspection shall show such elevator to be in an unsafe condition, the commission, or a commissioner, may issue a preliminary order requiring such repairs or alterations to be made to such elevator as may be necessary to render it safe, and may order the use of such elevator discontinued until such repairs or alterations are made or such unsafe conditions are removed. Unless such preliminary order be complied with, a hearing before the commission, a commissioner or referee of such commission shall be allowed, upon request, at which the owner, operator or

other person in charge of such elevator shall have opportunity to appear and show cause why he should not comply with said order. If it shall thereafter appear to the commission that such elevator is unsafe and that the requirements contained in said preliminary order should be complied with, or that other things should be done to make such elevator safe, the commission may order or confirm the withholding of the permit to operate such elevator and may make such requirements as it deems proper for its repair or alteration or for the correction of such unsafe condition. Such order may thereafter be reheard by the commission or reviewed by the courts in the manner specified by the workmen's compensation, insurance and safety act of 1917 for safety orders, and not otherwise. If the operation of such elevator during the making of repairs or alterations is not immediately dangerous to the safety of employees, the commission may, in its discretion, issue a temporary permit for the operation of such elevator for not to exceed thirty days during the making of such repairs or alterations. Nothing contained in this act shall be construed as a limitation upon the authority of the commission to prescribe or enforce general or special safety orders.

§ 4. **Inspectors. Certificate of competency.** The commission may, in its discretion, cause the inspection herein provided for to be made either by its safety inspectors or by any qualified elevator inspector employed by an insurance company, or may issue its permit, based upon a certificate of inspection issued by qualified elevator inspectors of any municipality, upon proof to its satisfaction that the safety requirements of such municipality are equal to the minimum safety requirements for elevators adopted by the commission; provided, that such persons making inspections shall first secure from the commission a certificate of competency to make such inspections. The commission is hereby vested with full power and authority to determine the competency of any applicant for such certificate, either by examination or by other satisfactory proof of qualifications. The commission may rescind at any time, upon good cause being shown therefor, any certificate of competency issued by it to an elevator inspector, or may at any time, upon good cause being shown therefore, and after notice and an opportunity to be heard, revoke any permit to operate such elevator. Nothing contained in this act shall be construed to limit the authority of the commission to prescribe or enforce general or special safety orders.

§ 5. **Fees for inspection.** The commission may fix and collect such fees for the inspection of elevators as it may deem necessary, not to exceed two dollars for each inspection or four dollars per year for each elevator. Such fees must be paid before the issuance of any permit to operate such elevator. No fee shall be charged by the commission where an inspection has been made by an inspector of any insurance company or municipality, if such inspector holds a certificate of competency from said commission. All fees collected by the commission under this act shall be paid into the accident prevention fund.

§ 6. **Report of inspections.** Every inspector so certified shall forward to the commission, on the forms provided by it, within twenty-one days after such inspection is made, a report of such inspection, in default of which his certificate of competency may be canceled.

TITLE 174.

EUREKA.

ACT 1083.

Charter of Eureka. [Stats. 1895, p. 356.]

Amended 1907, p. 1172; 1911, p. 2036; 1913, p. 1544; 1917, p. 1742.

TITLE 175.

EXPLOSIVES.

ACT 1092.

An act relating to explosives and prescribing regulations for the transporation, storage and selling of explosives, and providing penalties for the violation of this act.

[Became a law under constitutional provision without governor's approval, March 21, 1911. Stats. 1911, p. 391.]

Amended 1917, p. 695.

The amendment of 1917 follows:

§ 3. Magazines. Magazines in which explosives may lawfully be stored or kept shall be two classes, as follows:

(a) **First class.** Magazines of the first class shall consist of those containing explosives exceeding one hundred pounds, and shall be constructed wholly of brick, wood covered with iron, or other fireproof material, and must be fireproof, and, except magazines where gunpowder or black blasting powder only is stored must be bullet proof, and shall have no openings except for ventilation and entrance. The doors of such magazine must be fireproof and bullet proof, and at all times kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks or fire through the same. Upon each side of such magazine there shall at all times be kept conspicuously posted a sign, with the words, "magazine," "explosives," "dangerous," legibly printed thereon in letters not less than six inches high. No matches, fire or lighting device of any kind except electric light shall at any time be permitted in any such magazine. No package of explosives shall at any time be opened in any magazine. No blasting caps, or other detonating or fulminating caps, or detonators, or electric fuzees, shall be kept or stored in any magazine in which explosives are kept or stored, but such caps, detonators or fuzees may be kept or stored in a magazine constructed as above provided which must be located at least one hundred feet from any magazine in which explosives are kept or stored. Magazines in which explosives are kept or stored must be detached and must be located at least one hundred feet from any other structure.

(b) **Quantity depends on distance.** On and after January 1, 1919, the quantity of explosives that may be lawfully had, kept or stored in any magazine shall depend upon the distance that such magazine is situated from buildings, highways, or railroads, and upon the protection afforded by natural or efficient artificial barricades to such buildings,

highways or railroads. Whenever any of the quantities given in column one of the quantity and distance table hereinafter set forth is had, kept or stored in any magazine in this state, the distance that any quantity given in column one of said table may be lawfully had, kept or stored from buildings is the distance set opposite said quantity in column two of said table, and the distance that any quantity in column one of said table, may be lawfully had, kept or stored from railroads is the distance set opposite said quantity in column three of said table, and the distance that any quantity given in column one of said table may be lawfully had, kept or stored from highways is the distance set opposite said quantity in column four of said table. The quantity and distance table governing the keeping or storing of explosives is as follows:

QUANTITY AND DISTANCE TABLE.

Column 1. Quantity that may be lawfully kept or stored from nearest building, highway or railroad				Column 2	Column 3	Column 4
Blasting caps		Other explosives		Distance from nearest building, feet	Distance from nearest railroad, feet	Distance from nearest highway, feet
Number over	Number not over	Pounds over	Pounds not over			
1,000	5,000	.....	.....	30	20	10
5,000	10,000	.....	.....	60	40	20
10,000	20,000	.....	.....	120	70	35
20,000	25,000	.....	50	145	90	45
25,000	50,000	50	100	240	140	70
50,000	100,000	100	200	360	220	110
100,000	150,000	200	300	520	310	150
150,000	200,000	300	400	640	380	190
200,000	250,000	400	500	720	430	220
250,000	300,000	500	600	800	480	240
300,000	350,000	600	700	860	520	260
350,000	400,000	700	800	920	550	280
400,000	450,000	800	900	980	590	300
450,000	500,000	900	1,000	1,020	610	310
500,000	750,000	1,000	1,500	1,060	640	320
750,000	1,000,000	1,500	2,000	1,200	720	360
1,000,000	1,500,000	2,000	3,000	1,300	780	390
1,500,000	2,000,000	3,000	4,000	1,420	850	420
2,000,000	2,500,000	4,000	5,000	1,500	900	450
		5,000	6,000	1,560	940	470
		6,000	7,000	1,610	970	490
		7,000	8,000	1,660	1,000	500
		8,000	9,000	1,700	1,020	510
		9,000	10,000	1,740	1,040	520
		10,000	20,000	1,780	1,070	530
		20,000	30,000	2,110	1,270	630
		30,000	40,000	2,410	1,450	720
		40,000	50,000	2,680	1,610	800
		50,000	60,000	2,920	1,750	880
		60,000	70,000	3,130	1,880	940
		70,000	80,000	3,310	1,990	1,000
		80,000	90,000	3,460	2,080	1,040
		90,000	100,000	3,580	2,150	1,080
		100,000	200,000	3,800	2,280	1,140
		200,000	300,000	4,310	2,590	1,300

Whenever the building, railroad or highway to be protected is effectually screened from the magazine, where explosives are had, kept or stored, either by natural features of the ground or by an efficient artificial barricade of such height that any straight line drawn from the top or any side wall of the magazine to any part of the building to be protected, will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the magazine to any point twelve feet above the center of the railroad or highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distances given in column two, three and four of the quantity and distance table may be reduced one-half.

If at any time the distances from a magazine to a building, highway or railroad be decreased through the construction of a new building, highway or railroad or by any other means, then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to correspond with the quantity and distance table.

"Building." "Highway." "Railroad." "Efficient artificial barricade." The term "building" when used in the foregoing table shall be held to mean and include only any building regularly occupied in whole or in part as a habitation for human beings, and any store, church, schoolhouse, railway station or other public place of assembly.

The term "highway" when used in the foregoing table shall be held to mean public streets or public road, and shall not include roads constructed and maintained by private persons.

The term "railroad" which used in the foregoing table shall be held to mean and include any steam, electric or other railroad that carries passengers or articles of commerce for hire.

The term "efficient artificial barricade" when used in the foregoing shall be held to mean an artificial mound or properly revetted wall of earth of a thickness of not less than three feet. The provisions of this subsection (b) shall not apply to mining or quarrying operations. Nothing contained in this subsection (b) shall be held to prohibit the keeping or storing of explosives at any explosive manufacturing plant which was actually used in manufacturing explosives prior to the fifteenth day of April, nineteen hundred seventeen.

(c) **Second class. Storage in tunnels.** Magazines of the second class shall consist of a stout box, and not more than one hundred pounds of explosives shall at any time be kept or stored therein, and, except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign with the words, "magazine," "explosives," "dangerous," legibly printed thereon.

Nothing in this section contained shall be held to prohibit the keeping or storing of explosives in any tunnel, where no person or persons are employed; provided, always, that any tunnel so used for the storage of explosives shall have fireproof doors, which must at all times be kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. The door of such tunnel magazine shall at

all times have legibly printed thereon the words, "magazine," "explosives," "dangerous." [Amendment approved May 18, 1917; Stats. 1917, p. 695.]

§ 11. **Explosives in mines.** [Repealed May 18, 1917; Stats. 1917, p. 698.]

TITLE 176.

EXPOSITIONS.

ACT 1093a.

An act giving and granting to the board of park commissioners of the city of San Diego the right to use and the right to authorize the use of Balboa Park in said city for exposition purposes.

[Approved March 24, 1911. Stats. 1911, p. 478.]

Amended 1916, Stats. 1916 (Extra Session), p. 43; 1917, Stats. 1917, p. 1.

The amendment of 1917 follows:

§ 1. **Use of San Diego park for exposition.** The board of park commissioners of the city of San Diego, California, is hereby authorized and empowered to use, or authorize any exposition company to use, any part or portion of the lands set aside as a public park by resolution of the board of trustees of the city of San Diego and approved and ratified by an act of the legislature of the state of California, approved February 4, 1870, for the purpose of giving an exposition in the year 1917 to celebrate the completion of the Panama canal. [Amendment approved January 19, 1917; Stats. 1917, p. 1. Section 1 was also amended at the Extra Session of 1916; Stats. 1916 (Extra Session), p. 43.]

§ 2. **Emergency measure.** This act is hereby declared to be an emergency measure within the meaning of section one, article four, of the constitution of the state of California, and shall take effect immediately.

The facts constituting such emergency are as follows: The directors of the Panama-California International Exposition and the members of the board of park commissioners of the city of San Diego are desirous of continuing the Panama-California International Exposition, situated in the city park of San Diego, for a further period of time, not to exceed one year. A large amount of money has been expended in the permanent improvement of the exposition site in the park, and many of the buildings contain exhibits that cannot be removed for some time. Therefore, it is necessary for legislative action immediately, in order to authorize the maintenance of such an exposition for the further period of time—the authorization of the state of California for the maintenance of said exposition having expired on the first day of January, 1917.

TITLE 181.

FEES.

ACT 1119.

To regulate fees and salaries of certain officers.

[Stats. 1869–70, p. 148.]

Amended 1869–70, pp. 677, 680; 1871–72, pp. 140, 178, 188, 219, 910; 1873–74, pp. 102, 204, 212, 885; 1877–78, pp. 134, 738; 1917, p. 788.

The amendment of 1917 follows:

§ 28. **Fees of grand and trial jurors.** Grand and trial jurors shall receive the fees as established by law. No juror who shall be excused from attendance upon his own motion, on the first day of his appearance, in obedience to the venire, shall receive per diem, but mileage only In civil actions tried by a jury the party or parties to the action who shall announce that a trial by jury is required shall pay the trial jury their per diem fees as jurors but shall recover the fees so paid, except in actions to recover the possession of personal property where the value of the property recovered amounts to less than three hundred dollars and in actions for the recovery of money or damages where the recovery is less than three hundred dollars, as costs from the party or parties against whom the verdict is rendered. For that purpose the party or parties to the action who shall announce that a trial by jury is required shall be required during the trial to deposit daily with the clerk of the court, at or before the time the case each day is called for trial, the amount of money necessary to pay in full the trial jury fees, for such day. Out of the total sum of money so deposited the clerk shall pay daily to each trial juror the fees to which he shall be entitled as provided by law. Clerks of courts of record shall keep an account of all moneys received for trials by each juror during the term, and if the sum so received by such juror shall not amount to the jury fees provided by law per day, he shall deliver to such juror a certificate of the time for which he is entitled to receive pay, which shall be paid out of the county treasury as other county dues. If in any trial in a civil case the jury be for any cause discharged without finding a verdict, the fees of the jury shall be paid by the party who shall have announced that a trial by jury is required, but may be recovered as costs if he afterwards obtain judgment; and until they are paid no further proceedings shall be allowed in the action. On the first day of each regular meeting of the board of supervisors the clerks of courts of record shall file with the clerk of the board of supervisors of their respective counties a detailed statement, containing a list of the jurors, and the amount of fees earned by each juror and paid out of the county treasury. No allowances shall be made to any clerk for any service performed by him, until the statement required by this section shall have been filed as aforesaid.

The amendatory act of 1917 contained the following provision:

§ 2. All acts and parts of acts in conflict with this act are hereby repealed. [Amendment approved May 21, 1917; Stats. 1917, p. 788.]

TITLE 182.

FELTON.

ACT 1129.

An act to incorporate the town of Felton in the county of Santa Cruz, state of California. [Approved March 8, 1878. Stats. 1877–78, p. 185.]

Repealed by act approved April 20, 1917; Stats. 1917, p. 151.

TITLE 188.

FIRE.

ACT 1171.

An act to provide for the fighting of forest fires in the San Dimas canyon in the San Gabriel mountains, California, and to make an appropriation therefor.

[Approved May 14, 1917. Stats. 1917, p. 476. In effect July 27, 1917.]

§ 1. **Appropriation: prevention of forest fires in San Dimas canyon.** Out of any money in the state treasury not otherwise appropriated, there is hereby appropriated annually the sum of eight hundred dollars, during the sixty-ninth and seventieth fiscal years, which money shall be used and expended for the purpose of preventing and extinguishing forest fires and the constructing and maintaining of fire trails and firebreaks in the San Dimas canyon in the San Gabriel mountains, California, and the canyons adjacent thereto.

§ 2. **Contract with San Dimas Fruit Exchange.** The state board of control is hereby authorized and empowered to enter into a contract or contracts with the San Dimas Fruit Exchange, a corporation organized and existing under and by virtue of the laws of the state of California, for the purpose of protecting said San Dimas canyon from devastation by fire; provided, however, that the expenditures for such purposes shall not be in excess of the amount or amounts expended by the said San Dimas Fruit Exchange; and provided, further, that in the event that the said San Dimas Fruit Exchange, the San Antonio Water Company and the county of Los Angeles do not contribute an amount equal to the appropriation hereby made for the purposes hereinbefore specified, the state board of control shall not have power to enter into such contract or contracts with the said San Dimas Fruit Exchange for the expenditure of the said money.

ACT 1172.

An act to provide for the prevention of forest fires in the San Antonio canyon in the San Gabriel mountains, California, and to make an appropriation therefor. [Approved May 14, 1917. Stats. 1917, p. 526. In effect July 27, 1917.]

TITLE 189.

FIRE DEPARTMENT.

ACT 1173.

An act to create a firemen's relief, health, and life insurance and pension fund in the several counties, cities and counties, cities, and towns of the state.

[Approved March 20, 1905. Stats. 1905, p. 412.]

Amended 1913, p. 690; 1917, p. 119.

The amendment of 1917 follows:

§ 12. Moneys to be paid into firemen's pension fund. The board of supervisors, or other governing authority, of any county, city and county, city or town, shall, for the purposes of said "firemen's relief and pension fund," hereinbefore mentioned, direct the payment annually, and when the tax levy is made, into said fund, of the following moneys:

First—All rewards given or paid to members of such firemen's force.

Second—All fines imposed upon members of such fire department in keeping with rules and regulations of the department.

Third—An amount equal to two per cent of the salaries paid to the firemen of such county, city and county, city or town during the preceding year, payable from the funds of such municipal corporation.

Fourth—One-half of all fines imposed and collected for violation of laws pertaining to precaution against fire. [Amendment approved April 14, 1917; Stats. 1917, p. 119.]

TITLE 190.

FIRE DISTRICTS.

ACT 1185.

An act to provide for the formation, government, operation and dissolution of Tamalpais forest fire district, to prevent and extinguish forest, brush and grass fires therein, and protect persons and property from injury, loss or damage resulting from any such fires; and to provide for the assesment, levy, collection and disbursement of taxes and revenues therein, and the contribution or payment of public funds therefor.

[Approved May 21, 1917. Stats. 1917, p. 774. In effect July 27, 1917.]

§ 1. "Tamalpais forest fire district" organized. There is hereby organized, created, established and incorporated a forest fire district within the county of Marin, to be known as "Tamalpais forest fire district," the boundaries of which are hereby established, described and determined as follows, to wit: Commencing at the point where the electric pole line of the Pacific Gas and Electric Company running from the Alto power-house to Bolinas first joins the state highway between the town of Mill Valley and Alto; running thence along the line of said pole line, southerly, southwesterly, and westerly across the Rancho Saucelito and the Rancho Las Baulinas until the said pole line crosses the county road along the easterly side of Bolinas inner bay or lagoon; running thence northwesterly along said county road to its intersection with the lower county road leading from Bolinas to Olema; running thence northwesterly along

said Bolinas and Olema county road to its intersection with the Tocaloma road at the village of Olema; running thence easterly along said county road leading to Tocaloma to its intersection with the county road running along the easterly bank of Paper Mill creek; running thence northerly and easterly along said county road running along the easterly bank of Paper Mill creek to the mouth of Nicasio creek; running thence up the county road running up Nicasio creek, in an easterly and southerly direction, through the village of Nicasio to the intersection of the Nicasio and San Geronimo county road with the Lucas Valley county road; thence easterly along said Lucas Valley county road to its intersection with the state highway at Las Gallinas; thence southerly along the state highway as at present laid out to the northerly corporate limits of the city of San Rafael; thence westerly along said northerly corporate limits of said city of San Rafael to the easterly corporate limits of the town of San Anselmo; thence southerly along the easterly corporate limits of the town of San Anselmo to the easterly corporate limits of the town of Ross; thence southerly along the easterly corporate limits of the town of Ross and westerly along the southerly corporate limits of the town of Ross to the intersection thereof with the state highway; thence southerly along the state highway to the northwesterly corporate limits of the town of Larkspur; thence northerly, easterly and southerly, along the corporate limits of the town of Larkspur to their intersection with the northerly corporate limits of the town of Corte Madera; thence easterly, southerly and westerly along the corporate limits of the town of Corte Madera to their intersection with the state highway; and thence southerly along the state highway to the point of beginning.

§ 2. **Appointment of board of trustees. Term.** Within thirty days after this act shall go into effect, a governing board of trustees for said district shall be appointed. Said board shall consist of one trustee to be appointed from said district at large by the board of supervisors of said county of Marin, and of one trustee to be appointed from each municipality lying wholly or partially within said district by the governing board of such municipality. The governing board of such district shall be called "the board of trustees of Tamalpais forest fire district." Each trustee appointed by a municipal board shall be an elector of the municipality from which he is appointed, and each appointee of the board of supervisors shall be an elector of the district. All such trustees shall hold office for the term of two years from and after the second day of the calendar year succeeding their appointment; provided, however, that the first board of trustees appointed under the provisions of this act shall, at their first meeting, so classify themselves by lot that one-half of their number, if the total membership is an even number, and if uneven then that a majority of their number, shall go out of office at the expiration of one year and the remainder at the expiration of two years, from the second day of the calendar year succeeding their appointment.

§ 3. **Officers. Expenses. Meetings.** The members of the board of trustees shall meet on the first Monday subsequent to thirty days after this act shall go into effect and shall organize by the election of one of their members as president and one thereof as secretary. The members

of the board shall serve without compensation provided that the necessary expenses of each member for actual traveling expenses on meetings or business connected with said board shall be allowed and paid. In event of the resignation, death or disability of any member, his successor shall be appointed by the board of supervisors, if such board originally made such appointment, or by the governing board of the appropriate municipality, if such appointment were originally made by the board of a municipality. The board of trustees shall provide for the time and place of holding its regular meetings, and the manner of calling the same, and shall establish rules for its proceedings. Special meetings may be called by three trustees and notice of the holding thereof shall be given to each member at least three hours before the meeting. All sessions, whether regular or special, shall be open to the public and a majority of the members of the board shall constitute a quorum for the transaction of business.

§ 4. **Powers of board of trustees.** The board of trustees of such district shall have power to take all necessary or proper steps for the prevention or extinguishing of forest, brush or grass fires within the district, and for the protection of persons or property from any injury, loss or damage resulting from any such fire or fires; to purchase such supplies and materials and to employ such labor or skilled services as may be necessary or proper in furtherance of the objects of this act, and if necessary or proper in the furtherance of the same to build, construct and thereafter to keep clear and maintain necessary fire roads or fire trails, hydrants or other fire-fighting apparatus upon the lands within the district or adjacent thereto, and to acquire by purchase, condemnation, license or other lawful means, in the name of the district, all necessary lands, rights of way, easements or property or material requisite or necessary for any of such purposes; to make contracts, to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers by this act conferred, or arising out of the use, taking or damage of such property for any such purposes, and generally to do any and all things necessary or incident to the powers hereby granted and to carry out the objects specified herein.

§ 5. **Estimate of money needed. "Tamalpais forest fire district tax." Levy and collection.** The board of trustees of said district shall at least fifteen days before the first day of the month in which the board of supervisors of Marin county is required by law to levy the amount of taxes required for county purposes, furnish to said board of supervisors and to the county auditor of said county, respectively, an estimate in writing of the amount of money necessary for all purposes required under the provisions of this act during the next ensuing fiscal year. The board of supervisors of such county shall thereafter at the time and in the manner of levying other county taxes levy upon all of the taxable property within the district and cause to be collected a tax, to be known as the "Tamalpais forest fire district tax," the maximum rate of which must not be greater than sufficient to raise the amount estimated to be raised by the said board of trustees of the district, nor in any event shall such tax exceed ten cents on each one hundred dollars of taxable property in such district.

All taxes levied under the provisions of this section shall be computed and entered on the county assessment-roll of said county by the county auditor thereof, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury of said county for the use of said district.

The funds shall be withdrawn from said county treasury upon the warrant of the board of trustees of such district signed by the president or acting president of the board, and countersigned by its secretary.

§ 6. **Proposal of amount to be paid toward expenses by state, etc. Governing board authorized to make proposal.** The board of trustees of such forest fire district prior to its estimate of the amount of money necessary for all purposes of the district for the ensuing fiscal year, as hereinabove provided, may request from the governing board or body having jurisdiction and control over any forest, brush or grass lands within such district owned or held for any purpose whatsoever by the state of California, or any county, city, township, municipal corporation, public corporation, or other political corporation or subdivision of the state, a proposal or promise as to what amount, if any, the state of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state owning or holding such lands, will agree to pay to such district towards its necessary expenses for the next ensuing fiscal year, or such proposal may be for the next two ensuing fiscal years in the event that such lands shall be under the control of the state of California, in consideration of said district taking over the supervision and concurrent control, as hereinafter set forth, of such lands so owned or held, only, however, in so far as is necessary or proper to prevent or extinguish forest, brush or grass fires thereon or within such district, or to protect persons or property from any injury, loss or damage resulting from any such fire, and said governing body having jurisdiction and control over such lands is hereby authorized and empowered, for the consideration aforesaid, to propose or promise, as aforesaid, and so obligate the state of California or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state owning or holding such lands respectively, to such district upon its board of trustees accepting such proposal for such purpose, whereupon such agreement shall be duly executed in the form of a contract, and such district shall thereupon take over the supervision and control of the prevention and extinguishing of forest, brush or grass fires upon such lands in the manner aforesaid for the next ensuing fiscal year, or for the life of such contract.

§ 7. **Annexation of territory. Petition. Proposition submitted to electors. If majority vote favors. Territory deemed added when. Exclusion of land. Petition. Hearing. Notice. Deemed excluded when.** Any territory, incorporated or unincorporated, lying adjacent and contiguous to said forest fire district, and within the same county therewith, may be added and annexed to such district, at any time, upon proceedings being had and taken as in this act provided; and any territory, incorporated or unincorporated, lying within said district, may be

withdrawn and excluded therefrom upon proceedings being had and taken as in this act provided. The board of trustees of such district upon receiving a written petition containing a description of the new territory sought to be annexed to such district, signed by the owners comprising more than one-half of the assessed value of such territory as shown by the last county assessment-roll, must thereupon submit to the electors of the district and also to the electors residing in the territory sought to be annexed, the proposition of whether such proposed territory shall be annexed and added to such district. The proposition to be submitted to the electors at such election, both within said district and within said territory so proposed to be annexed, shall be as follows: "for annexation," or "against annexation," or words equivalent thereto. Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district, and also in a newspaper, if any, printed and published in such territory so proposed to be annexed. The board of trustees, shall canvass, separately, the votes cast within said district, and the votes cast within said territory so proposed to be annexed, and if it shall appear from such canvass that a majority of all the ballots cast in such district and a majority of all the ballots cast in such territory so proposed to be annexed are in favor of annexation, the board of trustees shall certify such fact to the secretary of state describing said property proposed to be annexed and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the territory (describing the same) has been annexed and added to the Tamalpais forest fire district and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the territory named therein shall be deemed added and annexed to and form a part of said forest fire district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. If the property so proposed to be annexed is included within a municipality, consent to such annexation shall first be obtained from the governing board of such municipality, and an authenticated copy of the resolution or order of such board so consenting to such annexation, shall be attached to the petition, and be made a part thereof. At any time after the organization of said forest fire district, and the appointment of the board of trustees thereof, the owner or owners of the record title to any land or lands within said district may file a petition with the board of supervisors of the county praying that his or their lands be excluded from the district; provided, that no petition shall be presented or received for the exclusion of lands which, either by themselves, or together with other lands included in the same petition, do not lie adjacent to the exterior boundaries of said forest fire district. At its first regular meeting after the filing of such petition the board of supervisors shall, by its order, set said petition for hearing, which hearing shall not be more than forty days nor less than ten days from the date of its said order. Notice of such hearing shall be mailed to the petitioners, and to the members of the board of trustees of the forest fire district at least one week before the hearing. At such hearing, or at any continuation thereof, the board of supervisors shall

hear and determine the facts urged for or against said petition, and shall make a finding determining whether or not the said lands petitioned to be withdrawn, or any part thereof, shall be withdrawn from the district. In case such finding shall be in favor of excluding such lands, or any portion thereof from the district, the board of supervisors shall make its order certifying such fact to the secretary of state, describing said property proposed to be excluded by said findings, and upon receipt of such last mentioned certificate, the secretary of state shall issue his certificate reciting that the territory (describing the same) has been excluded from the Tamalpais forest fire district, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of the county of Marin. From and after the date of such certificate, the territory described therein shall be deemed excluded from said forest fire district.

§ 8. **Dissolution of district.** The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called either by its board of trustees or by petition signed by twenty-five per cent of the registered voters within the district upon the question of dissolution, and the proposition which shall be submitted to the electors at such election shall be as follows: "Shall the district be dissolved?" Such election must be called and held; and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district. If two-thirds of the votes at such election shall be in favor of the dissolution of the district, the board of trustees shall certify such fact to the secretary of state, and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that said forest fire district has been dissolved, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the district named therein shall be deemed dissolved, and the property of the district shall thereupon vest in the county wherein said district is situate, if the district at the time of its dissolution comprises unincorporated territory alone, and if it comprises incorporated territory alone, or partly incorporated and partly unincorporated territory, then in such event its property shall be ratably apportioned amongst the several municipalities and the county in proportion to the assessed value of the property included within said district as shown upon the last county assessment-roll; provided, however, that any real property, easements or rights of way belonging to said district shall in such event remain the property of the municipality wherein the same is situate, if situated within incorporated territory, otherwise the same shall remain the property of the county.

§ 9. **Publication of notices. Words defined.** Every notice herein required to be published may be published in a daily or weekly or semi-weekly newspaper; and if there is no daily, or weekly or semi-weekly newspaper published within the district or within a subdivision thereof or other territory wherein the same is required to be published, then such notice shall be posted for the length of time herein required for the

publication of the same in three public places of such district or such subdivision thereof or such other territory as the case may be. The term "municipality," as used in this act, shall include a city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes. The words "district" shall apply, unless otherwise expressed or used, to said forest fire district formed under the provisions of this act, and the word "trustees," and the words "board of trustees," shall apply to the trustees and to the board of trustees of such district.

§ 10. **Provision optional and permissive.** The provision herein contained for the entering into proposals and contracts with said forest fire district by the state of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of this state, is hereby declared to be optional and permissive and no further authority of law shall be required for such proposals or contracts than that herein contained, and no further authority of law shall be required than that contained in this act for the levy of taxes by boards of supervisors for the purposes herein specified, and no further authority shall be required by law for the bringing of actions in eminent domain, for the acquiring by said forest fire district of rights of way for fire roads or trails, and easements to cut timber, brush or grass thereon, and to maintain the same, than the authority contained in this act.

§ 11. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 195.

FOODS.

ACT 1206.

An act providing for the inspection of animals slaughtered for human food, providing for the inspection of the meat and meat food products of such animals, providing for the collection of fees to defray the expenses incurred by maintaining such inspection, providing for the appointment and duties of officials to carry into effect the provisions of this act, providing for the marking of carcasses and parts thereof, and providing a penalty for violation thereof.

[Approved May 11, 1917. Stats. 1917, p. 423. In effect July 27, 1917.]

§ 1. **Inspection of slaughtering establishments by state veterinarian.** Any person, firm or corporation in the state of California, engaged in the slaughtering of cattle, sheep, swine, or goats, desiring to have the healthfulness of the meat and meat food products of such animals certi-

fied to, may make application for the inauguration of an inspection service in such establishment. Said application shall be in writing addressed to the state veterinarian of California, and shall be made on blanks which will be furnished by said state veterinarian. In such application such applicant for inspection shall agree to comply with the provisions of this act and to maintain said establishment in a clean and sanitary manner. Upon receipt of said application the state veterinarian shall make an inspection of said establishment and if found clean and sanitary, and properly equipped to conduct its business in a clean and sanitary manner, he shall inaugurate an inspection service therein, and shall give to such establishment an official number, and this number shall be used to mark the meat and meat food products of the establishment as hereinafter provided. Such an establishment shall thereafter be known as "Official Establishment No. ——."

§ 2. **Fees.** The cost of such inspection service shall be borne by the establishment where it is maintained and shall be paid for in the following manner: When, in the opinion of the state veterinarian, the volume of business is sufficient to occupy the continuous services of one inspector, such establishment shall pay a fee of one hundred fifty dollars per month. When, in the opinion of the state veterinarian, the services of more than one inspector are required to properly carry on the work, the fee in such cases shall be one hundred fifty dollars per month for the first inspector, and one hundred twenty-five dollars per month for each additional inspector. When, in the opinion of the state veterinarian, the inspection work in two or more neighboring establishments can be properly supervised by one inspector, said state veterinarian may, in such cases, probate the fees among such establishments, but in no instance where only one inspector is employed to supervise the work in more than one establishment shall the aggregate fees be less than one hundred fifty dollars per month, and in no such instance shall the individual fees be less than fifty dollars per month. All such fees shall be paid during the first week of January, April, July and October of each year and they shall be paid in advance for the ensuing three months. Such fees shall be paid to the state veterinarian, who shall at least as often as once each month and oftener if required to do so, report to the state controller the total amount of fees collected, and at the same time he shall pay into the state treasury the entire amount of said receipts. All such receipts shall be credited to the meat hygiene fund, which fund is hereby created, out of which shall be paid the salaries of inspectors who are appointed in accordance with the provisions of this act, as well as other expenses that may be incurred incidental thereto. In no instance, however, shall any of the fees collected as provided herein be refunded. The state veterinarian is hereby authorizd to appoint such inspectors as may be necessary to carry out the provisions of this act.

§ 3. **Hours for slaughtering.** All slaughtering in each official establishment shall be conducted between the hours of seven o'clock A. M. and seven o'clock P. M. of any one week day, unless a special permit in writing or by telegram, authorizing slaughtering at any other time, is granted by the state veterinarian. The manager or other person in

charge of such establishment shall inform the inspector when work has been concluded for the day, and of the day and hour when work will be resumed. Where one inspector is detailed to conduct the work at two or more establishments where few animals are slaughtered, the inspector may designate the hours for work.

§ 4. **Ante-mortem examination of animals.** In each official establishment an ante-mortem examination shall be made of all cattle, sheep, swine and goats about to be slaughtered, and satisfactory facilities shall be provided for conducting such examinations, and for separating and holding apart from passed animals those that are unfit for immediate slaughter.

§ 5. **Parts inspected. Mark.** In each official establishment a careful inspection shall be made of all animals at the time of slaughter. The head and tongue, tail, thymus gland, and all viscera, and all parts and blood used in the preparation of meat food and medicinal products shall be retained in such a manner as to preserve their identity until after the post-mortem examination has been completed. Carcasses and parts thereof found to be sound, healthful, wholesome and fit for human food shall be passed and marked in the following manner: Upon all passed carcasses and parts thereof slaughtered in an official establishment the inspector shall place a mark bearing the words "Cal. Inspected and Passed." This mark shall also contain the official number of the establishment. The number of such marks that shall be affixed and their location on the carcasses and parts thereof shall be determined by the state veterinarian. Each carcass or part thereof, which is found on post-mortem inspection to be unsound, unhealthful, unwholesome or otherwise unfit for human food shall be marked conspicuously by the inspector at the time of inspection with the words "Cal. Inspected and Condemned," and such carcass or part thereof shall, under the supervision of the inspector, be rendered unfit for human consumption in some manner approved by the state veterinarian.

§ 6. **Rules and regulations.** The state veterinarian shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this act, and all inspections and examinations made under this act shall be such and made in such manner as described in the rules and regulations precribed by said state veterinarian not inconsistent with the provisions of this act; provided, however, that in making such rules and regulations said state veterinarian shall be guided by the regulations governing meat inspection of the United States department of agriculture.

§ 7. **Violation.** It shall be unlawful for any person, firm or corporation except the inspector as herein provided, to have in possession, keep or use any mark, stamp or brand provided or used for marking, stamping or branding any article herein required to be marked, stamped or branded. It shall be unlawful for any person, firm or corporation to have in possession, keep, make or use any mark, stamp or brand having thereon a device or words similar in character or import to the marks,

stamps or brands provided or used for marking, stamping or branding such articles, and any violation hereof shall be deemed a misdemeanor.

TITLE 198.

FORESTRY.

ACT 1222.

An act to fix the salaries of the state forester, deputy forester and assistant forester.

[Approved March 22, 1909. Stats. 1909, p. 669.]

Amended 1917; Stats. 1917, p. 439.

The amendment of 1917 follows:

§ 1. **Salaries of state forester and assistants.** The salary of the state forester shall be three thousand dollars per annum. The state forester shall have authority to appoint a deputy forester at a salary of two thousand four hundred dollars per annum and an assistant forester at a salary of one thousand six hundred dollars per annum. The deputy forester shall exercise all the powers and duties of the state forester during the latter's absence. All the salaries mentioned herein are to be paid in the same manner as the salaries of other state officers are paid.

§ 2. **Repealed.** All acts and parts of acts inconsistent herewith are hereby repealed.

ACT 1223.

An act to provide for the reforestation, the cutting of fire lanes and fire trails on the Angeles national forest, and to make an appropriation therefor. [Approved May 15, 1917. Stats. 1917, p. 532. In effect July 27, 1917.]

The act appropriated $5,000 for the purpose indicated.

ACT 1224.

An act providing for the establishment and maintenance of a state nursery under the jurisdiction and management of the state forester for the growing of stock for reforestation and the planting of trees along highways and in public places, and making an appropriation therefor.

[Approved May 15, 1917. Stats. 1917, p. 563. In effect July 27, 1917.]

§ 1. **State nursery established.** There is hereby established a state nursery under the jurisdiction and management of the state forester for the growing of stock for reforestation of public lands, the planting of trees along public streets and highways and for the beautifying of parks and school grounds. The state nursery shall be located by the state forester upon lands now owned by the state or donated to the state for that purpose.

§ 2. **Duty of state forester.** The state forester shall construct and maintain such buildings, improvements and equipment, and shall employ and fix the compensation of such employees as may be necessary to carry

out the provisions of this act. He may also purchase nursery stock and seed and distribute the same at cost for public planting or reforestation.

§ 3. **Governor to receive deeds, etc.** The governor, on behalf of the state, is hereby authorized to receive all such deeds, conveyances, assurances or donations of real or personal property as may be necessary in law to vest in the people of the state of California the title to any site or sites for said nursery and any equipment and supplies therefor that may be donated to the state and accepted by the governor.

§ 4. **Appropriation.** Out of any money in the state treasury not otherwise appropriated there is hereby appropriated the sum of fourteen thousand dollars for the purposes of this act.

TITLE 200.

FRANCHISES.

ACT 1235.

An act providing for the resettlement of franchise rights of and the granting of a resettlement franchise to any person, firm or corporation actually engaged in operating a street, suburban or interurban railroad in cities or cities and counties having at the effective date of this act a freeholders' charter adopted under the provisions of section eight of article eleven of the constitution of the state of California, which charter provides for the resettlement of franchise rights of and the granting of resettlement franchises to any person, firm or corporation engaged in operating a public utility in such a municipality, and providing conditions for the granting of such franchises by legislative or other governing bodies of such city or city and county.

[Approved May 22, 1917. Stats. 1917, p. 820. In effect July 27, 1917.]

§ 1. **Power of board of supervisors, etc., to provide for resettlement of franchise rights.** The board of supervisors, the board of trustees or common council, or other governing or legislative body of any city or city and county having at the effective date of this act a freeholders' charter adopted under the provisions of section eight of article eleven of the constitution of the state of California, and which charter provides for the resettlement of and the granting of a resettlement franchise to any person, firm or corporation engaged in operating a public utility in such city or city and county, is hereby empowered to provide for a general resettlement of the franchise rights and to grant a resettlement franchise to any person, firm or corporation actually engaged in operating a street, suburban or interurban railroad in said city or city and county, upon written application therefor, and upon such terms and conditions as are in this act provided, and may, in such resettlement of any such franchise impose other and additional terms and conditions not in conflict herewith.

§ 2. **Franchise submitted to vote of electors.** Every such resettlement franchise which is granted shall be granted after such publication and upon such notice as the governing or legislative body shall by resolu-

tion determine, or failing such determination after such publication and upon such notice as is or shall be prescribed by law for the enactment of ordinances by such governing or legislative body. After the final passage of such franchise, the same shall be referred and submitted to the vote of the electors of the city or city and county at the general or special election next ensuing not less than twenty days after the final passage of such ordinance, or if no general or special election is to be held in the city or city and county within a period of not less than twenty days and not more than ninety days after such final passage, the said governing or legislative body may call a special election for the purpose of submitting said ordinance to the electors as aforesaid, said special election to be held not less than thirty days and not more than sixty days after such final passage. No such resettlement franchise shall go into effect until it shall have been so submitted to the electors of the city or city and county and receive the approval of a majority of the electors voting thereon; and provided, further, that such resettlement franchise shall not be effective unless accepted in writing by the grantee of such resettlement franchise.

§ 3. **Rights conferred by franchise.** Every such resettlement franchise, permit or privilege shall confer upon the grantee thereof the right to occupy the roads, streets, highways, avenues, boulevards, lanes, alleys, courts, places and pathways of the city or city and county, particularly set out in the terms and conditons of such franchise, permit or privilege, for the purpose of conducting, operating and maintaining thereon a street, suburban or interurban railroad, subject always to the right of the city or city and county to acquire and possess the property of said grantee; provided, however, that said grantee shall pay to the city or city and county such a percentage of the net revenue annually collected from any and all sources under and by virtue of such franchise, permit or privilege, as shall be fixed in such franchise. What constitutes such annual net revenue shall be provided in such franchise.

§ 4. **New franchise may be part of resettlement franchise.** The legislative or governing body may in such resettlement franchise provide that any new franchise granted to the holder of such resettlement franchise shall be considered as part of such resettlement franchise.

§ 5. **Extension of franchise to annexed territory.** The legislative or governing body may in such resettlement franchise provide that in case of consolidation or annexation to the city or city and county of any territory not now included in said city or city and county at the date said resettlement franchise is granted, any franchise to operate such street, suburban or interurban railroad, or any part thereof, held or claimed by the holder of such resettlement franchise in or for any portion of such consolidated or annexed territory shall thereupon be surrendered to the city or city and county, and that the rights and obligations of such resettlement franchise shall thereupon automatically extend to such additional territory, and that a valuation for the purpose of public acquisition of the properties used and useful, or, in the discretion of the city or city and county, prospectively useful, in the operation of such street, suburban or interurban railroad in the area so consolidated or annexed, and

not included in the capital valuation already fixed in such resettlement franchise shall be added to the capital account of such resettlement franchise grantee at a valuation for the purpose of public acquisition fixed by the railroad commission of the state of California, or its successors in interest, and otherwise determined as provided in this act.

§ 6. Grantee to surrender franchises owned. Every resettlement franchise shall provide that the grantee thereof shall surrender the franchises or rights, owned or claimed by the grantee, to occupy such portion of the roads, streets, highways, avenues, boulevards, lanes, alleys, courts, places and pathways as it is proposed such street, suburban or interurban railroad shall thereafter occupy under the provisions of such resettlement franchise, and that the grantee shall accept in lieu thereof the rights and privileges granted by such resettlement franchise as a franchise for the continued operation of such street, suburban or interurban railroad within the limits of the city or city and county or such portion thereof as had theretofore been operated under the franchise or franchises surrendered.

§ 7. Granted for indeterminate period. Purchase by city. Valuation by railroad commission. Every such resettlement franchise, permit or privilege shall be granted for an indeterminate period, subject always to the right of the city or city and county to acquire and possess the property of the grantee. Every resettlement franchise shall be granted upon the express condition that the city or city and county may, at a valuation for the purpose of public acquisition, fixed and determined as hereinafter provided, either assume ownership by purchase, take over and possess the property used and useful, or, in the discretion of the city or city and county prospectively useful, of the franchise grantee, his or its successors or assigns, upon giving said grantee written notice of its intention to purchase and take over said property, which written notice shall be given only when authorized by ordinance of the legislative or governing body of the city or city and county. The valuation for the purpose of public acquisition of such property used and useful, or, in the discretion of the city or city and county, prospectively useful, and owned by the grantee at the time application is made for such resettlement franchise, permit or privilege, shall be fixed by the railroad commission of the state of California, or its successors in interest. The valuation of such property, as fixed by the railroad commission of the state of California, may be set forth in said resettlement franchise, permit or privilege, in which case a readjustment from time to time of this valuation by the addition of the cost of extensions and betterments and by the deduction of the value of property sold or abandoned, and of the amount of depreciation sustained by the property used or useful, or prospectively useful, of the franchise grantee shall be made in such manner as may in said resettlement franchise be provided. All expenses of such valuation by the railroad commission of the state of California, or its successors in interest shall be paid by the city or city and county to the railroad commission of the state of California, or its successors in interest.

§ 8. **Value in excess of amount paid not to be claimed.** Said resettlement franchise shall provide that the grantee thereof, its successors or assigns, shall never claim before any court or other public authority in any proceeding of any character any value for said resettlement franchise, permit or privilege in excess of the amount originally paid for the same by the grantee thereof to the public authority granting the same.

§ 9. **Amendment.** Any resettlement franchise may be amended from time to time by ordinance passed by the governing or legislative body of the city or city and county and ratified by the electors of the city or city and county in the manner herein prescribed for the passage of such resettlement franchise in the first instance, and not otherwise; provided, that no such amendment shall be effective unless accepted in writing by the grantee of such resettlement franchise.

§ 10. **Exercise of police power. Right of city to acquire property by right of eminent domain.** The legislature hereby declares that this act is passed subject to the continued power of the state of California in the exercise of its police power or otherwise through the instrumentality of the railroad commission of the state of California or other agency to provide at any and all times for the supervision and regulation of public utilities notwithstanding any franchise, permit or privilege or any provision thereof granted under this act, or any part thereof.

Nothing herein contained, nor any provision of any franchise granted hereunder shall be deemed to prevent a city or city and county from acquiring at any time the property of any public utility through the exercise of the right of eminent domain under the then constitution and laws, and the legislature hereby declares it to be against the policy of the state for any city or county to contract away, either for a term or in perpetuity, the right to exercise the right of eminent domain in respect to any public utility.

§ 11. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 202.

FREE LIBRARIES.

Act 1248a.

An act to provide for the establishment and maintenance of county free libraries in the state of California, and repealing "An act entitled 'An act to provide county library systems,' approved April 12, 1909, and all acts and parts of acts in conflict with this act."

[Approved February 25, 1911. Stats. 1911, p. 80.]

Amended 1917; Stats. 1917, p. 1610.

The amendment of 1917 follows:

§ 9gg. **Salary of county librarian.** In counties of the thirty-third class the salary of the county librarian shall be eighteen hundred dollars per annum. [Amendment approved June 1, 1917; Stats. 1917, p. 1610.

TITLE 204.

FRESNO COUNTY.

ACT 1264a.

An act to increase the number of judges of the superior court of the county of Fresno, and to provide for the appointment of an additional judge.

[Approved May 5, 1917. Stats. 1917, p. 283. In effect July 27, 1917.]

§ 1. **Fresno county judges.** The number of judges of the superior court Fresno county is hereby increased from two to three.

§ 2. **Appointment of one additional judge. Election.** Within ninety days after the taking effect of this act, the governor shall appoint one additional judge of the superior court of the county of Fresno, state of California, who shall hold office until the first Monday after the first day of January, A. D., one thousand, nine hundred nineteen. At the general election to be held in November, 1918, a judge of the superior court of said county shall be elected in said county, who shall be the successor of the judge appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. **Salary.** The salary of said additional judge shall be the same in amount, and shall be paid at the same time and in the same manner as the salary of the other two judges of the superior court of said county now authorized by law.

TITLE 205.

FRUIT.

ACT 1275.

An act to establish a standard for the packing and marketing of apples, fixing penalties for the violation of its provisions, and providing for its enforcement and making an appropriation to carry into effect the provisions hereof.

[Approved June 10, 1915. Stats. 1915, p. 1386.]

Repealed 1917; Stats. 1917, p. 285. See next Act.

ACT 1275a.

An act to establish standards for the packing and marketing of apples, forbidding the sale of certain infected and diseased apples, providing for its enforcement, fixing penalties for its violation, and making an appropriation to carry into effect the provisions thereof, and repealing an act entitled "An act to establish a standard for the

packing and marketing of apples, fixing penalties for the violation of its provisions, and providing for its enforcement and making an appropriation to carry into effect the provisions hereof," approved June 10, 1915.

[Approved May 7, 1917. Stats. 1917, p. 285. In effect July 27, 1917.]

§ 1. **Title.** This act shall be known, and for any and all purposes may be designated and referred to, as "The standard apple act of 1917."

§ 2. **Standard grades established.** The following standard grades are hereby established for apples, packed, shipped, delivered for shipment, offered for sale or sold, in the state of California, when contained inclosed packages:

(a) **"California Fancy."** The "California Fancy" grade shall consist of apples of well-grown, properly matured specimens of one variety, hand-picked, with stems retained therein, well colored for the variety, uniform in size, well packed, and shall be free from insect pests, diseases, visible rot, visible dry rot, visible Baldwin spot, insect bites, bruises and other defects, except such bruises and defects as are necessarily caused in the operation of packing, and virtually free from dirt; provided, however, that a variation from the said standard, as to insect pests, diseases, dry rot, Baldwin spot, insect bites, bruises and other defects, shall be allowed, not to exceed ten per cent total of such defects in any one package, nor to exceed three per cent of any one such defect; and provided, further, that a variation in size of the apples shall be allowed, not to exceed three-eighths of one inch, as the same may be measured by the smallest diameter therof.

(b) **"B grade."** The "B grade" shall consist of apples of well-grown, properly matured specimens of one variety, hand-picked, uniform in size, well packed, free from insect pects, diseases, visible rot, visible dry rot, visible Baldwin spot, insect bites, sun scald and frost bite more than skin deep, and bruises resulting in the breaking of the skin and virtually free from dirt; provided, however, that insect bites which have healed in the process of maturity of the apple, and slightly misshapen apples shall be permitted in this grade; that a variation in size of the apples shall be allowed, not to exceed three-eighths of one inch, as the same may be measured by the smallest diameter therof, and that a variation from the said standard, as to insect pests, diseases, dry rot, Baldwin spots, bruises and other defects, shall be allowed, not to exceed ten per cent total of such defects in any one package, nor to exceed three per cent of any one such defect.

(c) **"C grade."** The "C grade" shall consist of apples of properly matured specimens of one variety, free from insect pests, visible rot, visible dry rot, visible Baldwin spots and diseases; provided, however, that a variation from said standard as to insect pests, dry rot, Baldwin spots and diseases, shall be allowed, not to exceed ten per cent total of such defects in any one package, nor to exceed three per cent of any one such defect.

§ 3. **Labeling of closed packages.** Every closed package in which any apples are packed, shipped, delivered for shipment, offered for sale

or sold, in the state of California, shall bear upon the outside thereof, and on the labeled or branded end, in plain words or figures and in the English language, the following: The grade of the apples therein contained, as herein defined, the designation of grade, when the stamps hereinafter provided for are not used, being stated in letters not smaller than thirty-six point type, that is, not less than one-half inch in height: the number of apples contained in the package or the net weight of the apples contained therein; the variety of the apples contained in the package, unless the variety be unknown to the packer, in which case the variety shall be stated as unknown; the name and business address of the person, firm, company, organization or corporation, who first packed or caused the same to be packed, and, if repacked, the name and address of the person, firm, company, organization or corporation who repacked the same or caused them to be repacked; the date when such apples were first packed, or if repacked, the date of repacking; provided, however, that a variation of five apples, more or less, than the number stated, shall be allowed.

§ 4. **Labeled apples must conform to standard.** No person, firm, company, organization or corporation, shall sell or offer for sale, within the state of California, any apples labeled, designated, invoiced or represented to be, of "California Fancy" or "B" or "C" grade, whether contained in closed packages or otherwise, unless the same shall conform to the standard for such grade herein established; provided, however, that nothing herein contained shall prevent the grading of Gravenstein apples as "California Fancy," though the stems be not retained therein.

§ 5. **Importation of infected apples forbidden.** No person, firm, company, organization or corporation, shall import into this state, or sell, barter, offer for sale or have in his possession for sale, any apples infected with any insect pest or the pupae or larvae thereof or any disease; provided, however, that this section shall not be construed to prevent a grower of fruit so infected in the state of California from selling the same, as a part of his crop, in bulk, to a packer, or to prevent a grower or packer from manufacturing the same into an apple by-product, or from selling the same to the operator of a by-product factory for the purpose of such manufacture; and, provided, further, that the provisions of this section shall be construed to be limited by the variations allowed by the terms of section two of this act.

§ 6. **False statements, etc.** No statement, figure, design or device, appearing upon any container in which apples are sold, bartered, or offered for sale, or in which apples are packed for sale or shipment, or upon the brand or lining of any such container, or upon the wrapper of any apple therein contained, or upon any sign or placard used in connection therewith and having reference to the apples contained, shall be false or misleading, in any particular. The word "Fancy" shall not be used with reference to any apples the grade of which does not conform to the standard for "California Fancy" as in this act defined.

§ 7. **Powers of state commissioner of horticulture.** The state commissioner of horticulture of California shall be charged with the enforcement of the provisions of this act, and for that purpose shall have power:

(a) To enter and to inspect every place within the state of California where apples are produced, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all apples and apple containers and equipment found in any such place.

(b) To design, and cause to be printed or lithographed, suitable uniform stamps to be used on packages containing apples of the various grades, standards for which are established by the terms of this act, to sell the same as hereinafter provided, and to prescribe the method of canceling the same.

(c) In accordance with the provisions of the civil service law of this state, to appoint, superintend, control and discharge such chief inspectors and subordinate inspectors as in his discretion may be deemed to be necessary, for the special purpose of enforcing the terms of this act, to prescribe their duties, and, in conjunction with the board of control, to fix their compensation, provided that no chief inspector shall be paid more than seven dollars per day and no subordinate inspector more than five dollars per day.

(d) Personally, or through any deputy or any such inspector, to seize and retain possession of, any apples or apple boxes packed, shipped, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act.

(e) In the name of the people of the state of California to cause to be instituted and to prosecute, in the superior court of any county or city and county of the state of California, in which apples packed, shipped, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act, may be found, an action or actions for the condemnation of apples as provided in section thirteen of this act.

§ 8. **Sale of stamps.** The stamps designed and provided by the state commissioner of horticulture of California, as provided by section seven of this act, by him shall be placed on sale and sold to any person who may apply therefor, at the price of one-half cent each. All moneys received by him from the sale of such stamps shall be paid over to the treasurer of the state of California, who shall deposit the same to the credit of a fund to be used exclusively for the payment of the expenses of enforcing the provisions of this act, and to be paid out only upon claims approved by the state commissioner of horticulture of California and by the board of control.

§ 9. **Qualifications of inspectors. Powers. Assignment of inspectors.** The inspectors appointed by the state commissioner of horticulture of California, as in section seven hereof provided, shall be citizens of the United States, and of the state of California, not less than twenty-one years of age, shall be skilled in the inspection of apples, and have a thorough knowledge of insect pests and diseases commonly preying upon such fruits; they shall have power to enter and to inspect every place within the state of California where apples are produced, packed, shipped,

delivered for shipment, offered for sale or sold, and to inspect all such places and apples and apple containers, found in any such place; and shall perform such other duties as may be prescribed by the state commissioner of horticulture of California, or by law.

The said commissioner shall assign such inspectors to such territory, within the state, as he may see fit; provided, that when the stamps purchased for any year by packers in any town, city or district, shall yield a sum of money sufficient to pay the expense thereof, such commissioner shall assign one inspector or more for special duty in such town, city or district, during the packing season of that year, or for a longer period, if deemed to be necessary; and provided, further, that in the discretion of said horticultural commissioner, he may refuse to permit inspection of fruit at the place where same is being packed if packed by any person, firm, company, organization or corporation who shall not make use of the stamps hereinabove provided for upon the packages of "California Fancy," "B" and "C" grade apples packed by him or it.

§ 10. **Repacking.** No container to or on which is attached any such stamp or on which shall appear the designation of grade as "California Fancy," "B" grade or "C" grade, shall be used as the container of any apples, other than those originally packed therein, until such stamp or grade designation has been removed; provided, that when apples are repacked, without the addition of new stock, other than stock of the same grade and from the same lot of which the package or packages repacked is or are a part, the same containers may be used without removing the stamps or grade designations.

§ 11. **Refusal to permit inspectors to enter.** No person, firm, company, organization or corporation, shall refuse to permit the state commissioner of horticulture of California, or any of his duly appointed deputies, or any inspector duly appointed by said commissioner under the provisions of this act, to enter or to inspect any place within the state of California where apples are produced, packed, shipped, delivered for shipment, offered for sale or sold, or to inspect such places, or any apples or apple containers or any equipment found there.

§ 12. **Penalty.** Any person, firm, company, organization or corporation, who shall violate any of the provisions of this act shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

§ 13. **Apples packed, shipped, etc., in violation of law, nuisance.** Any apples packed, shipped, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act, and the containers in which they may be, shall be deemed to be a public nuisance, may be seized by said commissioner of horticulture, or his deputy, or by any inspector appointed under the provisions of this act, or by any county horticultural commissioner or his deputy, and by order of the superior court of the county or city and county within which the same may be found, shall be condemned and destroyed or released upon such conditions as the court in its discretion may impose to insure that they

will not be packed, shipped, delivered for shipment, offered for sale or sold in violation of any of the provisions of this act.

§ 14. **Guaranty. Form of guaranty.** No person, firm, company, organization or corporation, shall be convicted of a violation of any provision of this act, if he shall establish a guaranty, signed by the person, firm, company, organization, or corporation, residing or lawfully engaged in business in the state of California, by or for whom the apples in question were originally packed, or repacked, to the effect that the apples, container, brand and label in question comply in all respects with the provisions of this act, and in addition, shall establish that the same are in substantially the same condition, in every respect, as they were when they were delivered out of the possession of such packer, and that the accused was not aware that such apples, container, brand or label, were or was in any respect in violation of any provision of this act. The signature to such guaranty may be printed, when done by the authority of the signer. To afford protection, such guaranty, in form and substance, must be substantially as follows:

"The undersigned guarantees that (this box or other package of apples or the boxes or other packages of apples mentioned in this, or the attached invoice, are all boxes or other packages of apples packed or repacked by the undersigned), comply, in all respects with the standard apple act of 1917. (Signature of the packer, with statement as to whether packer is firm, company, organization or corporation and business address.)"

Where the guaranty is used on each separate box, it may consist of the legend, "guaranteed by the packer, under the standard apple act of 1917," printed, stamped or written on the labeled or branded end of the package.

§ 15. **Duty of district attorney.** It shall be the duty of the district attorney of the county, or city and county, in which any violation of this act may occur, to prosecute the person, firm, company, organization or corporation accused of such violation, and also, at the request of the state commissioner of horticulture, or any one of his deputies, to institute and prosecute such actions for condemnation as may be authorized under the provisions of this act.

§ 16. **Effect on foods and liquors act.** No act which is made unlawful by any provision of an act of the legislature of the state of California, entitled, "An act for preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a state laboratory for foods, liquors and drugs and making an appropriation therefor," approved March 11, 1907, or any amendment thereto, shall be deemed lawful by reason of any provision of this act; nor shall this act be construed in any respect to limit the powers of the state board of health.

§ 17. **Appropriation.** The sum of five thousand dollars ($5,000) is hereby appropriated out of any money in the state treasury, not otherwise appropriated for the payment of the cost of printing, lithograph-

ing, stationery, stamps, clerical assistance, traveling expenses and salaries of inspectors and office rentals, incurred by the state commissioner of horticulture in the enforcement of this act during the fiscal years commencing July 1, 1917, and July 1, 1918, respectively. The state controller is hereby authorized to draw his warrants for the sum herein appropriated in favor of said commissioner and the state treasurer is hereby directed to pay the same.

§ 18. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 19. **Stats. 1915, p. 1386, repealed.** An act entitled "An act to establish a standard for the packing and marketing of apples, fixing penalties for the violation of its provisions, and providing for its enforcement and making an appropriation to carry into effect the provisions hereof," approved June 10, 1915, is hereby repealed.

ACT 1275b.

An act to promote the development of the California fresh fruit industry in state and interstate markets, and to protect the state's reputation in these markets by establishing a standard for the packing of certain fresh fruits specified therein, and to prevent deception in the packing, prescribing penalties for the violation of the provisions hereof, and repealing all acts inconsistent herewith.

[Approved May 24, 1917. Stats. 1917, p. 909. In effect July 27, 1917.]

§ 1. **Standard for packing fresh fruits.** To promote the development of the California fresh fruit industry and to prevent deception in packing for state or interstate shipment, there is hereby created and established a "standard" for the packing of fresh fruits of the kinds specified in this act.

§ 2. **Application.** Unless specifically excepted in this act, all of its provisions shall be applicable to all fresh fruits specified herein when packed, shipped, delivered for shipment, offered for sale or sold in any container or subcontainer.

§ 3. **Free from diseases.** All fresh fruits of the kinds specified in this act when packed shall be practically free from insects and fungous diseases.

§ 4. **Fruits exempt.** All fresh fruits of the kind specified in this act, except citrus fruits, which shall be sold in bulk or loose in the box or in any other manner, excepting in standarized packs as provided in this act (excepting grapes, which must conform to the sugar standards provided in section eight *a* hereof), shall be exempt from the provisions of this act.

§ 5. **Words defined.** When used in this act the words herein mentioned shall be defined as follows: "Pack, packing or packed," shall mean the regular compact arrangement of all or part of the fruit in any container or subcontainer used for the purpose of sale or transportation for sale. The words "in bulk or loose in the box without packing" shall mean the indiscrimirate placing without any thought of regular arrangement of any of the kinds of fresh fruit mentioned in this act into a box, wagon or other receptacle used for the purpose of sale or transportation for sale.

The words "fresh fruit" shall mean the fresh product of any tree, vine or plant mentioned in this act.

The word "maturity" shall mean a degree of ripeness fit for shipment.

The word "county" includes a consolidated "city and county."

The word "container" shall mean any box, crate or other package used to hold or contain packed fresh fruit.

The word "subcontainer" shall mean any basket or other receptacle used within a container of packed fresh fruit.

§ 6. **Cherries.** All cherries packed in containers or subcontainers shall contain cherries well colored, of practically uniform size, quality, and maturity and one variety only, excepting that such containers may contain more than one variety if such fact be plainly stamped on the outside thereof with the words "mixed varieties" with letters not less than one-half inch high. Each container or subcontainer shall be stamped on the outside with the mimimum weight of contents and the container shall have the name of variety or varieties stamped thereon.

§ 7. **Peaches, apricots, pears, etc.** Peaches, apricots, pears, quinces, tomatoes, plums and prunes when packed shall be of practically uniform size, quality and maturity. When packed in containers made up of two or more subcontainers having sloping sides, for the purpose of ventilation of the fresh fruit therein, the contents shall not vary in size more than ten per cent in each layer, and not more than twenty per cent in the whole subcontainer, and no layer below the top shall contain a greater numerical count than the top layer. Each container or subcontainer shall be stamped upon the outside with the minimum weight of its contents. Each container shall bear in plain letters the name of the variety contained therein. When packed in a container having perpendicular sides and ends, each shall contain approximately the same numerical count in each layer; provided, that when peaches are packed in containers having perpendicular sides the container shall also be marked upon the outside of the end thereof in plain figures with the approixmate number of peaches in the box, which shall be within four peaches of the true count.

When the fresh fruits mentioned in this section are packed in containers known to the trade as "lug" boxes, the provisions of this section appertaining to variety, numerical count and marking shall not apply.

§ 8a. **Table grapes.** Table grapes, when packed, shall be of practically uniform quality and shall be well matured and show a sugar content of not less than seventeen per cent Balling scale, except Emperor,

Gros Coleman and Cornichon, which shall show not less than sixteen per cent Balling scale. Each crate or package except subcontainers shall be stamped in plain letters with the name of the variety of grapes therein. Each container, or subcontainer, shall be stamped in plain figures and letters upon one end with a minimum net weight, and no container or subcontainer shall contain less than the mimimum stamped thereon. Irregular containers in addition thereto, shall be plainly marked "irregular" and have the actual gross weight stamped thereon.

§ 8b. Standard containers for table grapes. "Irregular containers." The standard containers for table grapes when packed shall be:

1. Standard crate, which after packing when measured at the end, shall not exceed five inches between the top and bottom and when measured in the center shall not exceed five and three-fourths inches between the top and bottom and containing a minimum net weight of not less than twenty-four pounds.
2. Double crates containing a minimum net weight of not less than forty-eight pounds.
3. One-half crates containing a minimum net weight of not less than twelve pounds.
4. Thirty pound lugs containing a minimum net weight of not less than twenty pounds.
5. Forty pound lugs containing a minimum net weight of not less than thirty-two pounds.
6. Fifty pound lugs containing a minimum net weight of not less than forty-two pounds.
7. Williams lugs containing a minimum net weight of not less than twenty-four pounds.
8. Kegs or drums packed with sawdust or other preserving material, containing a minimum net weight of not less than twenty-nine pounds and a maximum net weight of not more than thirty-five pounds.
9. All other containers of table grapes shall be "irregular" containers.

§ 9. Standard container for berries. The standard container for berries shall be: Dry quart containing an interior capacity of sixty-seven and two-tenths cubic inches, or dry pint containing an interior capacity of thirty-three and six-tenths cubic inches, or dry one-half pint containing an interior capacity of sixteen and eight-tenths cubic inches, or baskets four and one-half by four and one-half by two and one-fourth in depth, or baskets four and one-half by four and one-half by two in depth, or baskets four and one-half by four and one-half by one and three-eighths in depth; all measurements are in inches or fractions thereof. All other sizes shall be marked "irregular." When packed, the berries in any container or subcontainer shall be practically uniform throughout the container, or subcontainer, in quality, color and maturity. Irregular containers shall be marked "irregular."

§ 10. Cantaloupes. Cantaloupes packed in containers as follows shall be known as standard packed:

Standard crates twelve by twelve by twenty-two and one-half inches containing forty-five or thirty-six cantaloupes;

Pony crates eleven by eleven by twenty-two and one-half inches containing forty-five or fifty-four cantaloupes;

Jumbo crates thirteen by thirteen by twenty-two and one-half inches containing thirty-six or forty-five cantaloupes;

Standard flats four by twelve by twenty-two and one-half inches containing twelve or fifteen cantaloupes;

Jumbo flats four and one-half by thirteen and one-half by twenty-two and one-half inches containing twelve or fifteen cantaloupes.

All measurements herein to be inside measurements without distention.

All other sizes of containers when packed shall be marked "irregular." All standard packs shall be marked "standard." All containers when packed shall have the number of cantaloupes contained therein stamped in plain figures on the label end of the crates with figures not less than one-half inch high. All cantaloupes when packed shall be fully netted of uniform size, firm and mature, free from bruises and practically free from aphis honey dew and other defects.

§ 11a. **Sale of immature or frozen citrus fruits.** It shall be unlawful for anyone to sell, offer for sale, ship or deliver for shipment any citrus fruits, which are immature or frozen to the extent of injuring the reputation of the citrus industry of the state of California if shipped, and for anyone to receive any such citrus fruits under a contract of sale, or for the purpose of sale, or for shipment, or for delivery for shipment; provided, however, that nothing in this section contained shall be construed to prevent the sale or shipment for sale of frozen or otherwise defective fruit to a by-product factory, or the manufacture thereof into citrus by-products; nor shall this section apply to the sale, or contract for sale, of citrus fruits on the trees, nor shall it apply to common carriers or their agents who are not interested in such fruits and are merely receiving the same for transportation.

§ 11b. **Matured oranges.** An orange shall be deemed properly matured for sale, or to be offered for sale, for shipment or to be offered for shipment, under the provisions of this act, either when the juice contains soluble solids equal to, or in excess of, eight parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization, or when the orange is substantially colored on the tree. The foregoing provisions shall not apply to shipments of oranges to foreign countries other than the Dominion of Canada, during any season, provided such shipments are made after the first day of November.

§ 12. **Name marked on containers.** All containers of fruit of a kind specified in this act, except subcontainers, when packed and offered for sale, shall bear upon them in plain sight and in plain letters on the outside thereof, the name of the orchard where the same was produced, with the postoffice address thereof, or the name and postoffice address of the person, firm, company or corporation, or organization who shall have first packed or authorized the packing of the same, or the name under which such packer shall be engaged in business, together with the postoffice address of such packer.

§ 13. Office of "inspector of fresh fruits" created. "Inspectors in chief of fresh fruits." The office of "inspector of fresh fruits" is hereby created for each and every county in the state. The horticultural commissioner of each county, and all deputy horticultural commissioners shall be ex-officio inspectors of fresh fruits thereof, and the district inspectors under each county horticultural commissioner are ex-officio "deputy inspectors of fresh fruits" in their respective districts. The board of supervisors shall appoint as many deputy "inspectors of fresh fruits" as are necessary to carry out the provisions of this act. Their term of office shall be for such time as is deemed necessary by said board of supervisors. For the purpose of creating and securing unity in inspection, the offices of "inspectors in chief of fresh fruits" are hereby created, and the state commissioner of horticulture and his chief deputy, for the purposes of this act, are hereby made ex-officio such inspectors in chief and shall, where there is a dispute or difference between the inspectors of fresh fruits of two or more counties, or where the interpretation of inspection standards between two or more counties differs materially, have the power and authority to settle the dispute between the inspectors of fresh fruit of such counties and to fix reasonable standards between such counties where they materially differ.

§ 14. Appointment when no commissioner of horticulture. If in any county or city and county of this state, there is no commissioner of horticulture, it shall be the duty of the board of supervisors thereof to appoint an inspector of fresh fruits and such deputy inspectors of fresh fruits as the said board of supervisors shall deem necessary. Such inspectors and deputy inspectors of fresh fruits shall be appointed to serve for such time during each year as fresh fruits are being packed or shipped in said county or city and county. The salary of an ispector of fresh fruits shall be five dollars per day and necessary traveling expenses. The salary of a deputy inspector of fresh fruits shall be three dollars and fifty cents per day and necessary traveling expenses.

§ 15. Deputy state commissioner of horticulture assigned, when. In case the board of supervisors of any county, or city and county, shall fail or neglect, for thirty days after receipt of a written request from the state commissioner of horticulture, to appoint an inspector of fresh fruits, or necessary deputy inspectors of fresh fruits for such county, or city and county, then the said state commissioner of horticulture shall forthwith assign to said county, or city and county, one or more deputy state commissioners of horticulture, as he shall deem necessary, and such deputy or deputies shall perform all of the duties, within the said county or city and county to which assigned, as is provided in this act to be performed by an inspector of fresh fruits. The actual cost of services rendered by an inspector or deputy inspector, as the case may be, of fresh fruits, assigned to any county in pursuance hereof, together with his necessary traveling expenses shall be a county charge and shall be paid in the same manner in which other claims against the county are paid.

§ 16. Removal. Vacancy. The board of supervisors shall remove any inspector of fresh fruits and the inspector of fresh fruits shall remove

any deputy upon proper showing of neglect of duty, malfeasance in office, or general unfitness for office. Whenever a vacancy in the office of inspector of fresh fruits or depupty inspector of fresh fruits occurs, the vacancy shall immediately be filled by the appointing power.

§ 17a. **Power of inspector.** Every inspector of fresh fruits and every deputy inspector of fresh fruits shall have power to enter and to inspect every place within the county for which he has been appointed where any fruit mentioned in this act is produced, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all such fruits and the containers thereof and the equipment found in any such places.

§ 17b. **Duty of inspector.** It shall be the duty of the inspectors or deputy inspectors of fresh fruit in their respective districts to enforce the provisions of this act and to cause the prosecution of any person, firm, corporation or organization, whom they know or have reason to believe is guilty of the violation of its provisions.

§ 17c. **Inspectors have powers of peace officers.** An inspector or deputy inspector of fresh fruits in the performance of their duties shall have the same powers as are possessed by peace officers of the city, county or state and shall have the right while exercising such police powers to seize and hold as evidence such amount of any pack, load, consignment or shipment of fresh fruit packed in violation of this act, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating this act.

§ 17d. **Duty of district attorney.** It shall be the duty of the district attorney of each and every county in the state to prosecute all persons charged with any violation of this act.

§ 18. **Lawful to refuse shipments in violation of act.** It shall be lawful for any fresh fruit forwarding person, firm, corporation or organization and for any common carrier to decline to accept for shipment or transportation and to decline to ship or transport any fresh fruits which upon inspection are found to be packed in violation of the provisions of this act, and any such fruit forwarder or common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor, thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter, all fresh fruits which upon inspection are found to be packed in violation of the provisions of this act.

§ 19. **Penalty for violation.** No person, firm, corporation, company or organization shall pack or cause to be packed for sale, or shipment, or shall ship or sell or offer for sale fruit which, or the container or subcontainer in which, the same shall be contained, shall in any respect fail to comply with the requirements of this act.

Any person, firm, corporation, company or organization who shall violate the provisions of this act shall be deemed to be guilty of a misdemeanor.

§ 20. **Conflicting laws.** All laws in conflict with this act or any part thereof are hereby repealed only in so far as they may conflict with any of the provisions of this act.

§ 21. **Constitutionality.** If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 209.

GAME LAWS.

ACT 1295b.

An act to divide the state of California into fish and game districts and to repeal an act entitled "An act to divide the state of California into six fish and game districts," approved March 21, 1911, and all acts or parts of acts inconsistent herewith. [Approved May 19, 1915. Stats. 1915, p. 589.]

Repealed 1917; Stats. 1917, p. 1047.
See post, Act 1295d.

ACT 1295d.

An act to divide the state of California into fish and game districts and to repeal an act entitled "An act to divide the state of California into fish and game districts and to repeal an act entitled 'An act to divide the state of California into six fish and game districts,' approved March 21, 1911, and all acts or parts of acts inconsistent herewith," approved May 19, 1915.

[Approved May 28, 1917. In effect July 27, 1917.]

§ 1. **State divided into fish and game districts.** The state of California is hereby divided into fish and game districts to be known and designated as: Fish and game district one, fish and game district one "A," fish and game district one "B," fish and game district one "C," fish and game district one "D," fish and game district one "E," fish and game district one "F," fish and game district one "G," fish and game district one "H," fish and game district one "I," fish and game district one "J," fish and game district one "K," fish and game district one "L," fish and game district two, fish and game district two "A," fish and game district three, fish and game district three "A," fish and game district three "B," fish and game district three "C," fish and game district three "D," fish and game district four, fish and game district four "A," fish and game district four "B," fish and game district four "C," fish and game district four "D," fish and game district four "E," fish and game district four "F," fish and game district five, fish and game district six, fish and game district seven, fish and game district seven "A," fish and game district eight, fish and game district nine, fish and game district ten, fish and game district eleven, fish and game district twelve, fish and game district

twelve "A," fish and game district twelve "B," fish and game district thirteen, fish and game district fourteen, fish and game district fifteen, fish and game district sixteen, fish and game district seventeen, fish and game district eighteen, fish and game district nineteen, fish and game district twenty, fish and game district twenty "A," fish and game district twenty-one, fish and game district twenty-two, fish and game district twenty-three, fish and game district twenty-four, fish and game district twenty-five, and fish and game district twenty-six.

§ 2. **One.** Fish and game district one shall consist of and include the following counties: Yuba, Calaveras, Tuolumne, Mariposa, Madera and Kings and those portions of Del Norte county not included in fish and game districts five and six; those portions of Siskiyou county not included in fish and game district one "A"; those portions of Modoc county not included in fish and game districts one "B" and one "C"; those portions of Humboldt county not included in fish and game districts six, seven, seven "A," eight and nine; those portions of Trinity county not included in fish and game district one "B"; those portions of Shasta county not included in fish and game district one "E"; those portions of Lassen county not included in fish and game districts one "F" and twenty-five; those portions of Tehama county not included in fish and game districts one "G" and twelve "A"; those portions of Plumas county not included in fish and game districts one "H" and twenty-five; those portions of Butte county not included in fish and game districts twelve "A" and twelve "B"; those portions of Sutter county not included in fish and game district twelve "B"; those portions of Sierra and Nevada counties not included in fish and game district twenty-three; those portions of Placer county not included in fish and game district twenty-three; those portions of El Dorado county not included in fish and game districts one "I" and twenty-three; those portions of Sacramento county not included in fish and game district twelve "B"; those portions of Amador county not included in fish and game districts one "J" and twenty-four; those portions of Alpine county not included in fish and game districts one "J" and twenty-four; those portions of San Joaquin county lying east and north of the east or right-hand bank of San Joaquin river and not included in fish and game districts three and twelve "B"; those portions of Stanislaus county lying east of the west bank of the San Joaquin river; those portions of Merced county lying east of the west bank of the San Joaquin river; those portions of Fresno county lying east of the west bank of Fresno slough, Fish slough and Summit lake not included in fish and game districts one "K" and twenty-six; those portions of Kern county lying east of the west bank of Bull slough and the west and south banks of Buena Vista lake to the southeast corner of said lake and lying north of a line extended from this point directly east and intersecting the Tejon state highway and lying east of the said state highway from the above-mentioned point of intersection to where the said state highway crosses the northern boundary line of Los Angeles county, not included in fish and game district one "L" and those portions of Tulare county not included in fish and game district one "L."

§ 3. **One "A."** Fish and game district one "A" shall consist of and include all of sections thirteen to thirty-six, inclusive, township forty-

seven north, range nine west; all of sections one to six, inclusive, township forty-six north, range nine west; all those portions of sections seven to thirteen, inclusive, township forty-six north, range nine west; lying north of and including the waters of the Klamath river in the said sections, all lying within the county of Siskiyou.

§ 4. **One "B."** Fish and game district one "B" shall consist of and include all lands within the county of Modoc lying within the following boundaries: Starting at a point where Boles creek crosses the national forest boundary in section twenty-nine, township forty-six north, range nine east; thence along said Boles creek to a point where the creek crosses the section line between sections nine and ten, township forty-five north, range nine east; thence due south to where the Deer hill and Canby wagon road crosses the section line between sections thirty-three and thirty-four, township forty-three north, range nine east; thence in a northwesterly direction along said wagon road to where it crosses the national forest boundary; thence along said boundary to place of beginning.

§ 5. **One "C."** Fish and game district one "C" shall consist of and include all lands within the county of Modoc within the following boundaries: Beginning at the northwest corner of section three, township forty-one north, range fourteen east; thence in a southeasterly direction along the summit of the main ridge between Shield's creek and Pine creek to the summit of the Warner mountains to the north of Warner peak (Buck Mt.) in section eleven, township forty-one north, range fifteen east; thence in a southerly direction along the summit of the Warner mountains to the first peak south of Pine creek basin, near the quarter section corner between sections thirty-five and thirty-six, township forty-one north, range fifteen east; thence in a westerly direction along the main ridge south of the north fork of Fitzhugh creek to the national forest boundary in section thirty-three, township forty-one north, range fourteen east; thence along said boundary to place of beginning.

§ 6. **One "D."** Fish and game district one "D" shall consist of and include that certain territory embraced in the Trinity national forest, more particularly described as follows, to wit:

(a) Sections nineteen, thirty, thirty-one and thirty-two of township thirty-four north, range eleven west; sections five, six, seven, eight, seventeen, eighteen, nineteen, twenty, thirty, and thirty-one of township thirty-three north, range eleven west; sections one, two, three, four, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, thirty-three, thirty-four, thirty-five, thirty-six of township thirty-four north, range twelve west; sections one, two, three, four, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six of township thirty-three north, range twelve west; sections one, two, three, four,

five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-nine and thirty of township thirty-two north, range twelve west; all in Mount Diablo base and meridian in the state of California; and

(b) Sections twenty-eight, thirty-one, thirty-two, thirty-three of township four north, range eight east; and sections four, five, six, seven, eight, nine, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-two, thirty-three, towship three north, range eight east; all in Humboldt base and meridian in the state of California.

§ 7. **One "E."** Fish and game district one "E" shall consist of and include all lands lying within the county of Shasta within the following boundaries: Beginning at a point on the McCloud river where the township line between townships thirty-six and thirty-seven north, range three west, crosses the McCloud river; thence in a southerly direction following the east bank of said river to the point where the ridge north of Mathless creek meets the McCloud river; thence in an easterly direction along the summit of said ridge and along the summit of the ridge dividing the Salt creek drainage area from the Nasoni creek drainage area; thence along the summit of the ridge dividing the Salt creek drainage area and the north fork of Squaw creek to Squaw creek; thence northerly along the west bank of said creek to the point where the township line between townships thirty-six and thirty-seven north, range two west, crosses the said creek; thence due west along the said township line and along the township line between townships thirty-six and thirty-seven north, range three west, to the point of beginning.

§ 8. **One "F."** Fish and game district one "F" shall consist of and include all lands within the county of Lassen within the following boundaries: Comprising an area including all of townships thirty-two and thirty-three north, range ten east, and all of that portion of township thirty-two north, range eleven east, falling on the west side of Eagle lake.

§ 9. **One "G."** Fish and game district one "G" shall consist of and include all lands within the county of Tehama within the following boundaries: Commencing at a point in section eighteen, township twenty-five north, range two east, where Deer creek intersects the range line between ranges two and three east and running thence north along the range line between ranges one and two east, allowing for proper offsets and corrections, to the northeast corner of section thirty-six, township twenty-seven north, range one east; thence west to a point where Mill creek intersects the national forest boundary; thence in a northeasterly direction along the main channel of Mill creek to a point where the said creek crosses the range line between ranges two and three east; thence south along the range line between ranges two and three east, to the southeast corner of section twenty-five, township twenty-seven north, range two east; thence west to the southwest corner of said section twenty-five; thence south to the southeast corner of section thirty-five, township twenty-seven north, range two east; thence east along town-

ship line to a point where Deer creek intersects the township line between township twenty-six north and township twenty-seven north; thence in a southwesterly direction along the main channel of Deer creek to the point of beginning.

§ 10. **One "H."** Fish and game district one "H" shall consist of and include all lands within the county of Plumas within the following boundaries: Beginning at the confluence of Willow creek with the Feather river below Hartman bar; thence northerly along Willow creek to where the Claremont stock driveway crosses the head of this stream; thence in an easterly direction along the Claremont stock driveway to Claremont peak; thence south along the summit of the ridge to the middle fork of the Feather river; thence southwesterly along the Feather river to the point of beginning.

§ 11. **One "I."** Fish and game district one "I" shall consist of and include all lands within the county of El Dorado within the following boundaries: Commencing at the junction of the North fork of the Middle fork of the American river, and the Middle fork of the American river; thence northeasterly up the North fork of the Middle fork to Grouse creek; thence northeasterly up main Grouse creek to its intersection with the township line between townships fifteen north and fourteen north, range thirteen east; thence easterly along said township line to the township corner of township fifteen north, ranges thirteen and fourteen east; thence south along range line between township fourteen north, ranges thirteen and fourteen east to the corner of sections twelve and thirteen, township fourteen north, range thirteen east and sections seven and eighteen, township fourteen north, range fourteen east; thence easterly along line between sections seven and eighteen, sections eight and seventeen to the Big Meadow trail; thence southerly along said Big Meadow trail to the line between sections twenty and twenty-nine, township fourteen north, range fourteen east; thence east along said section line to the Rubicon river; thence southwesterly down the Rubicon river to intersection of the line between sections six and seven, township thirteen north, range fourteen east; thence west along said section line to range line between township thirteen north, ranges thirteen east and fourteen east; thence west along line between sections one and twelve, township thirteen north, range thirteen east to Wallace canyon creek; thence southwesterly down Wallace canyon creek to its confluence with Long canyon; thence westerly down Long canyon to its confluence with the Rubicon river; thence westerly down said river to its confluence with the Middle fork of the American river; thence down said river to place of beginning.

§ 12. **One "J."** Fish and game district one "J" shall consist of and include all lands within the counties of Amador and Alpine within the following boundaries: Commencing at a point between sections thirteen and eighteen, township eight north, range fourteen and fifteen east, where the Alpine state highway enters section eighteen, township eight north, range fifteen east; thence northeasterly along the south side of said Alpine highway right of way to the corner of townships eight and

nine north, ranges fifteen and sixteen east; thence east along line between townships eight and nine north, range sixteen east; thence east along line between townships eight and nine north, range seventeen east, to the intersection of Cedar Camp trail; thence southerly along Cedar Camp trail to intersection of said Cedar Camp trail with the Mokelumne river; thence down the north bank of the Mokelumne river in a southwesterly direction to the intersection of range line between township seven north, ranges fourteen and fifteen east; thence north along range line between township eight north, ranges fourteen and fifteen east to the intersection of Alpine state highway to the place of beginning.

§ 13. **One "K."** Fish and game district one "K" shalll consist of and include all lands in the county of Fresno within the following boundaries: Beginning at the confluence of the north fork of Kings river; and the middle fork of Kings river; thence easterly along the summit of the divide separating the drainage area of the north fork of Kings river from the drainage area of the middle fork of Kings river to Spanish mountain; thence southeasterly along the summit of Tombstone ridge, which separates the drainage area of Crown creek from that of Tombstone creek, to the middle fork of Kings river; thence westerly along the north bank of the middle fork of Kings river to the point of beginning.

§ 14. **One "L."** Fish and game district one "L" shall consist of and include the area composing the watershed of Chimney creek north of the Sequoia national forest boundary and all of the watershed of Long valley; all lying within the counties of Tulare and Kern.

§ 15. **Two.** Fish and game district two shall consist of and include all those portions of Mendocino county not included in fish and game districts ten and two "A"; all those portions of Glenn county not included in fish and game districts two "A" and twelve "A"; all those portions of Lake county not included in fish and game district two "A"; all those portions of Colusa county not included in fish and game districts twelve "A" and twelve "B"; all those portions of Yolo county not included in fish and game district twelve "B"; all those portions of Solano county not included in fish and game districts twelve and twelve "B"; all those portions of Napa county not included in fish and game district twelve; all those portions of Sonoma county not included in fish and game districts ten and twelve; all those portions of Marin county not included in fish and game districts ten, eleven and twelve.

§ 16. **Two "A."** Fish and game district two "A" shall consist of and include all lands lying within the following boundaries, located in counties of Mendocino, Lake and Glenn: Beginning at the summit of Hull mountain in Mendocino county, in the southwest corner of section two, township nineteen north, range ten west; thence in a northeasterly direction down Hull creek (sometimes known as Red Rock creek) to its junction with Sand creek, thence southeasterly down Sand creek to its junction with Corbin creek, thence in an easterly direction up Corbin creek to section thirty-six, township twenty north, range eight west, thence in a southerly direction up a ravine to the Sheetiron-Elk Creek road on the summit of the Coast Range mountains in section twelve,

township nineteen north, range eight west, thence southwesterly along the road and summit over Sheetiron mountain to Low gap, where the Bloody Rock trail crosses the summit in section twenty-seven, township nineteen north, range eight west, thence in a westerly direction down the Bloody Rock trail and Cold creek to South Eel river in section twenty-six, township nineteen north, range nine west, thence down the river to the mouth of a ravine in the southeast quarter of section twenty-seven, township nineteen north, range nine west, thence in a northwesterly direction up the ravine through sections twenty-seven and twenty-eight to the summit of Boardman ridge thence in a northwesterly direction up Boardman ridge to the summit of Hull mountain.

§ 17. **Three.** Fish and game district three shall consist of and include those portions of Contra Costa county not included in fish and game districts twelve and twelve "B"; those portions of San Joaquin county not included in fish and game districts one and twelve "B"; those portions of Alameda county not included in fish and game districts twelve and thirteen; those portions of San Francisco county not included in fish and game districts ten, eleven, twelve and thirteen; those portions of San Mateo county not included in fish and game districts ten and thirteen; those portions of Santa Clara county not included in fish and game district thirteen; those portions of Santa Cruz county not included in fish and game districts three "A," ten, fourteen, fifteen and seventeen; those portions of San Benito county not included in fish and game district three "B"; those portions of Monterey county not included in fish and game districts sixteen, seventeen and eighteen; those portions of San Luis Obispo county not included in fish and game district eighteen; those portions of Santa Barbara county not included in fish and game districts three "C" and nineteen; those portions of Ventura county not included in fish and game districts three "D" and nineteen; those portions of Stanislaus county not included in fish and game district one; those portions of Merced county not included in fish and game district one; those portions of Fresno county not included in fish and game districts one, one "K" and twenty-six; those portions of Kern county not included in fish and game districts one and one "L."

§ 18. **Three "A."** Fish and game district three "A" shall consist of and include that certain territory embraced in California Redwood Park, Santa Cruz county, commonly known as the "Big Basin," and more particularly described as follows, to wit:

The east half and the east half of the west half of section one, the north half of the northeast quarter and the northeast quarter of the northwest quarter of section twelve, all in township nine south, range four west; the west half of section four, all of sections five and six, the north half of the northwest quarter, the northeast quarter, the east half of the southeast quarter of section seven, the north half, the southwest quarter, the north half of the southeast quarter and the southwest quarter of the southeast quarter of section eight, the north half of the northwest quarter, the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section nine, all in township nine south, range three west; all that portion of the southwest quarter

of section twenty-eight lying south and west of the road known as the "China grade," all that portion of the east half of section twenty-nine lying south and west of said "China grade," the east half of section thirty-two, the southwest quarter and that portion of the northwest quarter of section thirty-three lying south of said "China grade," all in township eight south, range three west; all townships and ranges mentioned herein being referred to Mount Diablo base line and meridian.

§ 19. **Three "B."** Fish and game district three "B" shall consist of and include those certain lands within the counties of San Benito and Monterey embraced within the Pinnacles National Monument, and more particularly described as follows, to wit: All of sections twenty to twenty-nine, inclusive, all of sections thirty-three, thirty-four and thirty-five and the west half of section thirty-six of township sixteen south, range seven east; the west half of section one, all of sections two and three, the east half of section four, the east half of section nine, all of sections ten and eleven, the west half of section twelve, the west half of section thirteen and all of sections fourteen and fifteen of township seventeen south, range seven east. All townships and ranges mentioned herein being referred to Mount Diablo base and meridian.

§ 20. **Three "C."** Fish and game district three "C" shall consist of and include all lands within the county of Santa Barbara within the following boundaries: Beginning at the summit of Mission Pine mountain, running thence northwest to the head of Mazana creek; thence along the north bank of said creek to its junction with the Sisquoc river; thence in an easterly direction along the south bank of the Sisquoc river to the junction of the south fork of the Sisquoc; thence along the west bank of the south fork of Sisquoc river to the point of beginning.

§ 21. **Three "D."** Fish and game district three "D" shall consist of and include all lands lying within the county of Ventura within the following boundaries: Beginning at the corner common to townships four and five north, ranges nineteen and twenty west, San Bernardino meridian, running thence west with the line of townships four and five north, to the summit of the divide between the watershed of Sespe creek and Santa Paula creek; thence westerly along the summit of the divide south of Sespe river to Ortega hill at the head of upper north fork of Matilija creek and Cherry creek; thence down Cherry creek along the Cuyama trail to Sespe river; thence up the Sespe river and Adobe Springs canyon along the Cuyama trail to the summit of Pine mountain; thence easterly following the summit of the Pine Mountain divide to a point on Alamo mountain due north of the point of beginning; thence south to point of beginning.

§ 22. **Four.** Fish and game district four shall consist of and include the counties of Mono and Inyo and all those portions of Los Angeles county not included in fish and game districts four "B," four "F," nineteen, twenty and twenty "A"; all those portions of San Bernardino county not included in fish and game districts four "A," four "B," and twenty-two; all those portions of Orange county not included in fish and

game districts four "C" and nineteen; all those portions of Riverside county not included in fish and game districts four "C," four "D" and twenty-two; all those portions of San Diego county not included in fish and game districts four "E," nineteen and twenty-one; all those portions of Imperial county not included in fish and game district twenty-two.

§ 23. **Four "A."** Fish and game district four "A" shall consist of and include a portion of the Angeles National Forest lying within the county of San Bernardino and more particularly described as follows, to wit: All that tract of land situate, lying and being within the following boundary:

Beginning at a point in the Angeles forest reserve in San Bernardino county where the ravine of the Mohave river crosses the north line of township two north, range four west, thence due east along the township lines to a point where the ravine of Deep creek crosses such township line; thence easterly following the ravine of said Deep creek to a point marking the confluence of the ravines of Deep creek and Holcomb creek; thence east and north following the ravine of Holcomb creek to Holcomb valley; thence easterly along the public road to the junction thereof with a public road leading southeasterly to the Rose mine; thence following the aforesaid road to Rose mine in a southeasterly direction to a point where it crosses the east line of township two north range two east; thence south along the easterly lines of township two north range two east, township one north range two east and township one south range two east to the southeast quarter of township one south range two east; thence due west along the township line to the southwest corner of township one south range one east; thence due north along the west line of township one south range one east to the ravine of Mill creek; thence west along the ravine of Mill creek to a point where Mill creek crosses the west line township one south range one west; thence north along the west line of township one south range one west and township one north range one west to the southeast corner of section twenty-four, township one north range two west; thence due west along the southerly line of sections twenty-four, twenty-three, twenty-two, twenty-one, twenty and nineteen of township one north range two west and the southerly line of sections twenty-four, twenty-three, twenty-two and twenty-one, township one north range three west to the line of the Angeles forest reserve; thence in a general northwesterly direction to a point where the ravine of Devil's canyon crosses the said Angeles forest reserve line; thence northerly along the ravines of Devil's canyon and Sawpit canyon to the place of beginning, all of said described area being within the boundaries of the Angeles forest reserve.

§ 24. **Four "B."** Fish and game district four "B" shall consist of and include a part of the westerly portion of the Angeles National Forest lying within the counties of San Bernardino and Los Angeles and more particularly described as follows, to wit: Sections six to ten, inclusive, sections fifteen to twenty-two, inclusive, and sections twenty-seven to thirty-two, inclusive, of township two north, range seven west; sections seven, eighteen, nineteen, thirty and thirty-one of township three north, range seven west; sections one to twenty-two, inclusive, and those por-

tions of sections twenty-three and twenty-four within the Angeles National Forest, all in township one north, range eight west; all of township two north, range eight west; sections seven to thirty-six, inclusive, of township three north, range eight west; sections one to twenty-four, inclusive, the west half of section twenty-five and all of sections twenty-six, twenty-seven, and twenty-eight in township one north, range nine west; all of township two north, range nine west; sections seven to thirty-six, inclusive, in township three north, range nine west; sections one to eighteen, inclusive, those portions of sections nineteen, twenty, twenty-one and twenty-two within the Angeles National Forest and all of sections twenty-three and twenty-four of township one north, range ten west; all of township two north, range ten west; sections seven to thirty-six, inclusive, of township three north, range ten west; all of sections one to fourteen, inclusive, and those portions of sections fifteen, sixteen, seventeen, eighteen, twenty-two, twenty-three and twenty-four within the Angeles National Forset in township one north, range eleven west; all of township two north, range eleven west; that portion of section two lying south and west of a line drawn from the northwest corner to the southeast corner of said section, all of sections three to thirty-six, inclusive, in township three north, range eleven west; all of sections one and two and those portions of sections three, four, five, six, eleven, twelve and thirteen within the Angeles National Forest in township one north, range twelve west; all of township two north, range twelve west; all of sections one to five, inclusive, those portions of sections six and seven lying south and east of a line drawn from the northeast corner of section six to the southwest corner of section seven and all of sections eight to thirty-six, inclusive, in township three north, range twelve west; all of sections one to seventeen, inclusive, those portions of sections eighteen, twenty, twenty-one and twenty-two within the Angeles National Forest, all of sections twenty-three to twenty-six, inclusive, and those portions of sections twenty-seven, thirty-five and thirty-six within the Angeles National Forest in township two north, range thirteen west; all of sections thirteen to thirty-six, inclusive, in township three north, range thirteen west; sections one, two and three and those portions of sections ten, eleven, twelve and thirteen within the Angeles National Forest in township two north, range fourteen west. All townships and ranges mentioned herein being referred to San Bernardino base line and meridian.

§ 25. **Four "C."** Fish and game district four "C" shall consist of and include that certain territory embraced within the Cleveland National Forest, more particularly described as follows, to wit: The east half of township five south, range seven west; all of township five south, range six west, except sections one, two, three, ten, eleven and twelve; all of township six south, range six west; the west half of township six south, range five west; all of township seven south, range six west; the west one-half of township seven south, range five west; all in San Bernardino base and meridian, in the state of California.

§ 26. **Four "D."** Fish and game district four "D" shall consist of and include all of townships six south, range five east; township six

south, range six east; and township seven south, range six east, all lying within the county of Riverside.

§ 27. **Four "E."** Fish and game district four "E" shall consist of and include all of sections twenty-seven to thirty-four, inclusive, township fourteen south, range five east; all of township fifteen south, range five east; all of sections thirteen, twenty-four, twenty-five, thirty-six, township fifteen south, range four east; all of sections five, six, seven, eight, township sixteen south, range six east; all of sections one to thirteen inclusive, township sixteen south, range five east; all of sections one, two, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-two, twenty-three, twenty-four and the east half of sections three, seventeen, twenty and the northeast quarter of twenty-nine and the north half of sections twenty-five to twenty-eight, inclusive; township sixteen south, range four east; the west half of sections eighteen, nineteen and the northwest quarter of section thirty, township sixteen south, range five east, all located within the county of San Diego.

§ 28. **Four "F."** Fish and game district four "F" shall consist of and include all of townships eight and nine north, range fourteen west, lying within the county of Los Angeles.

§ 29. **Five.** Fish and game district five shall consist of and include the ocean water and the tide-lands of the state to high-water mark lying between the northern boundary of the state and a line extending west from the extreme westerly point of Point St. George in Del Norte county, and shall exclude all sloughs, streams and lagoons in said county, except Smith river from its mouth to Bailey's riffle.

§ 30. **Six.** Fish and game district six shall consist of and include the ocean waters and the tide-lands of the state to high-water mark lying between a line extending west from the extreme westerly point of Point St. George, in Del Norte county, and a line extending due west from the extreme westerly point of Mussel point, in Humboldt county, and shall exclude all sloughs, streams and lagoons in said counties, except the Klamath river from its mouth to the mouth of McGarvey creek.

§ 31. **Seven.** Fish and game district seven shall consist of and include the ocean waters and the tide-lands of the state to high-water mark lying between a line extending due west from the extreme point of Mussel point, in Humboldt county, and the southern boundary of Humboldt county, and shall exclude the ocean waters between the north and the south jetties at the entrance to Humboldt bay from the westerly end of each of said jetties in the Pacific ocean to their respective aprons on the shores of Humboldt bay, and shall also exclude all sloughs, streams and lagoons.

§ 32. **Seven "A."** Fish and game district seven "A" shall consist of and include the waters of Mad river from its mouth to Carson's bridge, the water of Eel river from it mouth to the east bonudary line of township three north, range two west, Humboldt base and meridian, and the waters of Salt river, a tributary of Eel river, as far up as the high tide-line.

§ 33. **Eight.** Fish and game district eight shall consist of and include the waters and tide-lands to high-water mark of Humboldt bay lying north of a straight line running east from the center of apron at the approach of the south jetty at the entrance of Humboldt bay to the east shore line of said bay and shall include the entrance of Humboldt bay not included in fish and game district seven and shall be exclusive of all rivers, streams and sloughs emptying into said bay.

§ 34. **Nine.** Fish and game district nine shall consist of and include the waters and tide-lands to high-water mark of Humboldt bay lying south of a straight line running east from the center of apron at the approach to the south jetty at the entrance of Humboldt bay to the east shore line of said bay, and shall be exclusive of all rivers, streams and sloughs emptying into said bay.

§ 35. **Ten.** Fish and game district ten shall consist of and include the ocean waters and the tide-lands of the state to high-water mark lying between the south boundary of Humboldt county and a line extending southwest from the extreme westerly point of Point Santa Cruz, in Santa Cruz county; and shall include the waters of Tomales bay, and shall be exclusive of all that portion of Bolinas bay lying inside of Bolinas bar, and of San Francisco bay lying east of a line drawn from Point Bonita to Point Lobos, and of all rivers, streams and lagoons.

§ 36. **Eleven.** Fish and game district eleven shall consist of and include the waters and tide-lands of San Francisco and Richardson bays to high-water mark bounded as follows: Beginning at the extreme westerly point of Point Bonita, thence in a direct line to the extreme westerly point of Point Lobos, thence around the shore line of San Francisco bay to the extreme northerly point of Black point in San Francisco county, thence in a direct line to the extreme southerly point of Peninsula point in Marin county, thence westerly around the shore line of Richardson and San Francisco bays to the point of beginning.

§ 37. **Twelve.** Fish and game district twelve shall consist of and include all waters and tide-lands of San Francisco bay to high-water mark not included in fish and game districts eleven and thirteen, the waters and tide-lands to high-water mark of San Leandro bay, Oakland creek or estuary, San Antonio creek in Alameda county, Raccoon straits and San Pablo bay to a line drawn due south from the lighthouse station at the end of the jetty at the south entrance of Mare Island straits and all lands and waters included within the exterior boundaries of said fish and game district and excluding all tributary sloughs, creeks, bays, rivers and overflowed areas not specifically described herein. For the purposes of this act that portion of San Pablo bay lying northerly of a line drawn from the south side of the mouth of Novato creek to Midshipment point, the extreme southwesterly point of Tubbs island, shall be included in fish and game district number two; and that portion of San Pablo bay lying north of a line drawn due east from a point situated on the bay shore of Tubbs island, one and one-half miles measured southwesterly along the levee from the electric power-line tower situated on the west bank of Sonoma creek, shall be included in fish and game district number two.

§ 38. **Twelve "A."** Fish and game district twelve "A" shall consist of and include all the waters of the Sacramento river flowing within the main channel between the bridge across said river at Colusa and the Vina ferry near the town of Vina, in Tehama county.

§ 39. **Twelve "B."** Fish and game district twelve "B" shall consist of and include all waters and tide-lands to high-water mark of the Mare Island straits from Carquinez straits to the boundary line between Napa and Solano counties, the Carquinez straits not included within fish and game district twelve, the waters and tide-lands to high-water mark of Suisun bay, all waters of the Sacramento river flowing within the main channel between the mouth thereof and the bridge across said river at Colusa; the waters in the main channel of Steamboat slough and Sutter Slough; the waters of New York slough and Broad slough; all waters of the San Joaquin river flowing within the main channel thereof to the south boundary of San Joaquin county; all lands and waters lying between the main channel of San Joaquin river from the place of confluence with Old river and the place of diversion of Middle river and the west and south banks if Old and Middle rivers and all lands and waters lying within the boundaries of said fish and game district and excluding all tributary sloughs, creeks, bays, rivers and overflowed areas not specifically described herein.

§ 40. **Thirteen.** Fish and game district thirteen shall consist of and include the waters and tide-lands to high-water mark of San Francisco bay lying to the south of a line drawn between Point Avisadero and the northwest point of Bay Farm island, exclusive of all streams, sloughs and lagoons.

§ 41. **Fourteen.** Fish and game district fourteen shall consist of and include the waters of Scotts creek, in Santa Cruz county, between its mouth and the mouth of Mill creek.

§ 42. **Fifteen.** Fish and game district fifteen shall consist of and include the waters and tide-lands to high-water mark of that portion of Monterey bay lying to the north of a line drawn from the extreme westerly point of Point Santa Cruz to the extreme westerly point of Soquel point; and shall consist of and include the waters of the San Lorenzo river and its tributaries.

§ 43. **Sixteen.** Fish and game district sixteen shall consist of and include the waters and tide-lands to high-water mark of that portion of Monterey bay lying to the south of a line drawn from the extreme northerly point of Point Pinos in a straight line easterly to the eastern shore of Monterey bay to a point north of the town of Seaside, said point being marked by a permanent monument placed by the United States government surveyors, and designated as "Monterey N. O. T. C. and G. S. Sta."

§ 44. **Seventeen.** Fish and game district seventeen shall consist of and include the waters and tide-lands to high-water mark of Monterey bay and the Pacific ocean, lying between a line extending southwest

from the extreme westerly point of Point Santa Cruz and a line extending due west from the mouth of Carmel river, in Monterey county, and exclusive of the areas included in fish and game districts fifteen and sixteen, and exclusive of all rivers, creeks, sloughs and lagoons, emptying into the Pacific ocean and Monterey bay within the boundaries of this district.

§ 45. **Eighteen.** Fish and game district eighteen shall consist of and include the ocean waters and tide-lands to high-water mark of the state lying between a line extending due west from the mouth of Carmel river and the south boundary of San Luis Obispo county, and shall exclude all rivers, streams, sloughs and lagoons.

§ 46. **Nineteen.** Fish and game district nineteen shall consist of and include the ocean waters and tide-lands to high-water mark of the state lying between the north boundary of Santa Barbara county and the southern boundary of Los Angeles county, and shall include all islands and adjacent waters belonging to the state of California and lying off the coast of southern California, south of a line extending due west into the Pacific Ocean from the north boundary of Santa Barbara county, exclusive of Santa Catalina island and state waters adjacent thereto; exclusive of all rivers, streams, lagoons and bays.

§ 47. **Twenty.** Fish and game district twenty shall consist of and include Catalina island and that portion of the state waters lying between a line extending south from the southeasterly shore in line with the intersecting South East rock; thence around the east end to the north side of a line extending west from the extreme west end of said island.

§ 48. **Twenty "A."** Fish and game district twenty "A" shall consist of and include that portion of the state waters around Catalina islands not included in fish and game district twenty.

§ 49. **Twenty-one.** Fish and game district twenty-one shall consist of and include those waters and tide-lands to high-water mark of San Diego bay lying inside of a straight line drawn from Point Loma to the offshore end of the San Diego breakwater.

§ 50. **Twenty-two.** Fish and game district twenty-two shall consist of and include the waters of Salton sea and the waters of the Colorado river.

§ 51. **Twenty-three.** Fish and game district twenty-three shall consist of and include the waters of Lake Tahoe and the Truckee river, and all streams flowing into said lake and river, and all lands within the drainage basin of said lake and river, lying within the state of California.

§ 52. **Twenty-four.** Fish and game district twenty-four shall consist of and include the waters of Silver lake, Twin lakes, Blue lakes, Meadow lake and Wood lake and all streams flowing into said lakes and all lands lying within the drainage basin of said lakes and streams, all being within the counties of Alpine and Amador.

§ 53. **Twenty-five.** Fish and game district twenty-five shall consist of and include the waters of Lake Almanor and all streams flowing into said lake and all lands lying within the drainage basin of said streams and lake, all being within the counties of Plumas and Lassen.

§ 54. **Twenty-six.** Fish and game district twenty-six shall consist of and include all waters in that portion of Rae lakes lying south of Fin Dome and all waters flowing into said portion of Rae lakes and all lands lying within the drainage basin of the said portion of Rae lakes; all waters in all lakes lying within the Sixty Lake basin; all waters flowing into said lakes; all waters flowing from the said lakes to the south fork of Woods creek and all lands lying within the Sixty Lake basin, all lying in the county of Fresno.

§ 55. **Stats. 1915, p. 589, repealed.** An act entitled "An act to divide the state of California into fish and game districts and to repeal an act entitled 'An act to divide the state of California into six fish and game districts,' approved March 21, 1911, and all acts or parts of acts inconsistent herewith," approved May 19, 1915, and all acts or parts of acts inconsistent herewith are hereby repealed.

ACT 1295e.

An act to further divide the state into fish and game districts by establishing a district specially suited for propagation of game, and to provide for the management and protection thereof.

[Approved May 26, 1917. Stats. 1917, p. 1166. In effect July 27, 1917.]

§ 1. **"Mount Tamalpais game refuge," created. Boundaries.** For the protection, conservation and propagation of game animals, except fish, there is hereby set apart and established a district to be known as "Mount Tamalpais game refuge," the boundaries of which are hereby determined to be as follows, to wit: All that certain territory within the county of Marin, bounded and described as follows, to wit:

Beginning at the intersection of the easterly shore of inner Bolinas bay with the northwesterly boundary line, extended, of the Stinson ranch conveyed to A. H. Stinson et al., by decree of distribution dated the twenty-eighth day of July, 1911, and recorded in the office of the county recorder of Marin county in book one hundred thirty-seven of deeds at page one hundred two; thence northeasterly along the said northwesterly boundary line to the southwesterly boundary line of the lands of the Marin municipal water district on the top of Bolinas ridge, thence along the exterior boundary of the lands of said district in such a way as to include the same, to a point in the abandoned portion of the Fairfax and Bolinas county road; thence northerly along the said road and along the Fairfax and Bolinas county road, to a point in the southwesterly line of the right of way of the Northwestern Pacific railroad company near Fairfax station; thence along the said last mentioned line in a southerly direction past the railroad stations at San Anselmo, Kentfield and Corte Madera, to its intersection with Humboldt street on the westerly boundary of the lands of the Sausalito land and ferry company, as said street is laid down and delineated on the official map of said

lands filed in the office of the county recorder of Marin county in rack number one, pull number nine; thence southerly along the westerly line of said Humboldt street and the westerly line of Tennessee avenue of the same tract, to the corner common to ranches E, F, and A as said ranches are delineated on the Tamalpais land and water company's map number three, filed in said recorder's office in map book number one, page one hundred four; thence southwesterly along the southeasterly boundary lines of ranches E, L, and K, as shown on said last mentioned map, to the shore of the Pacific ocean; thence northwesterly along the shore of the Pacific ocean and across the easterly end of the Bolinas sandspit, and along the easterly shore of inner Bolinas bay, to the point of beginning, excepting from the area of said Mount Tamalpais game refuge all lands lying within the exterior boundaries of any incorporated town.

§ 2. **No open season.** The provisions of law for the protection of fish in the second fish and game district of this state shall be enforced within said Mount Tamalpais game refuge and there shall be no open season therein for any game animals except fish.

§ 3. **Unlawful to kill game birds or animals. Firearms, etc. Game animals defined.** It shall be unlawful within said territory at any time:

(a) to hunt, pursue, take, kill or destroy any game birds or animals, except to capture the same to be set at liberty elsewhere, as hereinafter specially provided;

(b) To hunt, pursue, take, kill, or destroy any other wild birds or animals except as hereinafter provided;

(c) For any person to have in his possession any firearms, trap or other contrivance designed to be used to kill, destroy or capture game animals except fish, without first having obtained a permit so to do from the fish and game commission of this state; provided, that nothing in this act contained shall prohibit the lawful occupant of any privately owned lands within said district, or his employees at the direction of said occupant, from killing ground squirrels, gophers, owls, hawks, blue jays, skunks and other destructive animals which are not game animals as herein after defined that may be on the land of said occupant; and provided, further, that nothing in this subdivision "c" contained shall apply to persons traveling upon any public highways within said territory, nor to members of the organized militia while on the state rifle range, nor to members of any high school militia while on the grounds of the high school at which time they may be enrolled. The term game animals used herein is intended to include all birds and animals which are protected or fostered by any of the laws of this state.

§ 4. **Power of fish and game commission.** The fish and game commission of the state of California shall have power:

(a) To exercise control over all game animals on all lands within the boundaries of said game refuge.

(b) To accept, on behalf of the state, donations of ownership or leasehold interest of any lands within the boundaries of said game refuge, to be used for the furtherance of the objects of protecting, feeding, or propagating game.

(c) To accept, on behalf of the state, donations of game birds and animals, and of money given or appropriated for protection, feeding, or propagation of game in said district, and to use the same for the said purposes, and as nearly as may be, for any particular purpose indicated by the donor.

(d) To make additional rules and regulations, not in conflict with this act or other statutes of the state, for the protection and propagation of game in said district.

(e) To issue in their discretion, and under such restrictions as they may deem best, permits for carrying, using, or having in possession within said district, firearms, traps, or other instruments or means for killing or taking birds or animals; but no such permits shall allow any person to hunt, kill, destroy or take any game birds or animals; and, no hunting, killing or destruction of wild birds or animals, other than game birds or animals, within said Mount Tamalpais game refuge shall be allowed, by game wardens or by persons holding special permits for the purpose; and persons holding such special permits shall be allowed so to hunt, kill, or destroy only when accompanied by a member of the fish and game commission, or by an authorized deputy thereof, or by the sheriff or a deputy sheriff of Marin county, except the lawful occupants of said lands and their employees shall not be required to obtain permits for the purpose of killing ground squirrels, gophers, owls, hawks, blue jays, skunks or other destructive animals which are not game animals as in this act defined.

§ 5. **Penalty.** Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

§ 6. **Duty of officers.** It shall be the duty of the fish and game commission of the state of California and of its deputies, and also of the district attorney, and of the sheriff, and of all other peace officers of Marin county to enforce all the provisions of this act, and to institute and assist in prosecutions for violations thereof.

§ 7. **County appropriation.** Any county may, in the discretion of its board of supervisors, appropriate and pay to the fish and game commission of the state of California, funds to be used by them, as provided in subdivision "c" of section 4 hereof.

ACT 1297.

An act to regulate and license the hunting of wild birds and animals, and to provide revenue therefrom, for game and fish preservation and restoration.

[Approved March 22, 1909. Stats. 1909, p. 663.]

Amended 1917; Stats. 1917, p. 650.

The amendment of 1917 follows:

§ 3. **Fees for hunting licenses.** The licenses herein provided for shall be issued as follows:

First—To any citizen of the United States who is a bona fide resident of the state of California, upon the payment of one dollar; provided, the licenses shall be issued to veterans of the civil war free of charge.

Second—To any citizen of the United States, not a bona fide resident of the state of California, upon the payment of ten dollars.

Third.—To any person not a citizen of the United States, upon the payment of twenty-five dollars. [Amendment Approved May 17, 1917; Stats. 1917, p. 650.]

ACT 1297a.

An act to regulate the issuance of licenses for resale to hunters and anglers.

[Approved May 20, 1915. Stats. 1915, p. 685.]

Amended 1917; Stats. 1917, pp. 40, 663.

The amendments of 1917 follow:

§ 1. **Who may issue hunting and fishing licenses.** Licenses granting the privilege to take, catch, hunt or kill fishes, wild mammals or wild birds shall be issued and delivered, upon application in writing, by the county clerk of any of the counties of the state, or by the state board of fish and game commissioners, or by the persons duly appointed and authorized by any such county clerk or the board of fish and game commissioners. [Amendment approved May 18, 1917; Stats. 1917, p. 663.]

§ 2. **Compensation for sale of licenses.** For each license sold, registered and accounted for by any person, except by a fish and game commissioner or a deputy or assistant fish and game commissioner paid a salary in full for his services to the state, he shall be allowed as compensation, for his own use, out of the fish and game preservation fund, ten per cent of the amount or amounts accounted for by him. [Amendment approved May 18, 1917; Stats. 1917, p. 663.]

§ 3. **Bond.** Every person authorized to issue and sell licenses under the provisions of this act shall, when required by said board of fish and game commissioners, execute to the fish and game commission a good and sufficient bond in a sum equal to the value of such licenses so delivered to such person to be sold as herein provided, to secure the faithful accounting and payment to the fish and game commission of the funds collected from the sale of such licenses and the faithful performance of the duties imposed upon him by this act, and said board of fish and game commissioners is hereby authorized and empowered to pay the premium on such bond out of the fish and game preservation fund. [Amendment approved May 18, 1917; Stats. 1917, p. 663.]

The act of 1915 relating to issuance of licenses for resale to hunters and licenses was also amended in 1917 as follows:

§ 1. **Who may issue hunting and fishing licenses.** Licenses granting the privilege to take, catch, hunt or kill fishes, wild mammals or wild birds shall be issued and delivered, upon application in writing, by the

county clerk of any of the counties of the state, or by the state board of fish and game commissioners, or by the persons duly appointed and authorized by the said county clerks or the board of fish and game commisioners. [Amendment approved April 5, 1917; Stats. 1917, p. 40.]

§ 2. **Compensation for sale of licenses.** For each hunting or angler's license sold, registered and accounted for by any person, except by a fish and game commissioner or a deputy or assistant fish and game commissioner paid a salary in full for his services to the state, he shall be allowed as compensation, for his own use, out of the fish and game preservation fund, ten per cent of the amount or amounts accounted for by him, and for each market fisherman's license hereunder fifty cents. [Amendment approved April 5, 1917; Stats. 1917, p. 40.]

ACT 1298.

An act to regulate the vocation of fishing, and to provide therefrom revenue for the propagation, restoration and preservation of fish in the waters of the state of California.

[Approved March 13, 1909. Stats. 1909, p. 302.]

Amended 1913, p. 985; 1917, p. 686.

Entirely amended in 1917 to read as follows:

§ 1. **License required.** Every person who uses or operates or assists in using or operating, any boat, net, trap, line or other appliance in the state for the purpose of catching or taking fish, mollusks or crustaceans for profit, and every person using or operating, or assisting in using or operating any boat, net, trap, line or other appliance for taking or catching fish, mollusks or crustaceans, or who brings or causes said fish, mollusks or crustaceans to be brought ashore at any point in the state for the purpose of selling the same as fresh fish, without first procuring a commercial fishing license, is guilty of a misdemeanor.

§ 2. **Licenses prepared by controller. Duty of president of commission.** The controller of state shall prepare suitable licenses, of the classes designated by the fish and game commissioners, which shall license the holder of such license to catch or take fish, mollusks or crustaceans or to assist in catching or taking fish, mollusks or crustaceans, as provided in section one of this act, for the term of one year from the first day of April of one year to the first day of April of the year following. The licenses shall be numbered consecutively, beginning with number one, and contain blanks for the insertion of the name of the holder, his resident address, and his description, by age, height, nationality and color of eyes and hair, which description shall be furnished by the applicant to the board of fish and game commissioners. The controller shall sign all licenses and deliver the same to the fish and game commissioners, on demand, who shall be charged for the same by the controller. Each license, before delivery to the applicant for a license, must be countersigned by the president of the board of fish and game commissioners, and the president of the board of fish and game commissioners shall execute a bond to the people of the state of California, in the sum of two thou-

sand dollars, for the faithful performance of the duties imposed upon him by this act.

§ 3. **Fee. Forfeiture of license.** Licenses shall be issued and delivered upon application to the state board of fish and game commissioners, or their deputies. The license fee shall be ten dollars for each person. Not more than one license shall be issued to any one person for the same year, except upon affidavit by the applicant that the one issued has been lost or destroyed, and no license issued as herein provided shall be transferable or used by any other person than the one to whom it was issued. Every person having a license as provided herein, who refuses to exhibit such license upon demand of any officer authorized to enforce the fish and game laws of this state, or any peace officer of this state, or who transfers or disposes of the same to another person to be used as a fisherman's license, or who fails to have his license with him where it may be readily examined by any officer authorized to enforce the fish and game laws, at the time he is using or operating or assisting in using or operating any net, trap, line or other appliance, or who uses or assists in using any net, trap, line or other appliance by modes or methods in violation of any law, for the preservation of fish and game shall forfeit this license.

§ 4. **Fees paid to whom.** The said license fees must be paid to the fish and game commissioners, or to someone designated by them for that purpose.

§ 5. **Credited to preservation fund.** The money collected from such licenses shall be paid by the commissioners into the state treasury, to the credit of the fish and game preservation fund.

§ 6. **Penalty.** The violation of any provisions of this act is hereby declared a misdemeanor, and every person violating any of its provisions, shall, upon conviction thereof, be fined in a sum not less than ten nor more than one hundred dollars, or by imprisonment in the county jail for a term of not less than ten nor more than one hundred days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund.

ACT 1298a.

An act to regulate and license the taking and catching of game fishes and to define game fish and to provide revenue therefrom, for fish preservation and restoration.

[Approved June 16, 1913. Stats. 1913, p. 986.]

Amended 1917; Stats. 1917, p. 37.

The amendment of 1917 follows:

§ 3. **Fees for game fish licenses.** Licenses as herein provided for shall be issued as follows:

First—To any citizen of the United States, over the age of eighteen years, who is a bona fide resident of the state of California, upon the

payment of one dollar; provided, that licenses shall be issued to veterans of the Civil War free of charge.

Second—To any citizen of the United States, over the age of eighteen years, not a bona fide resident of the state of California, upon the payment of three dollars.

Third—To any person, not a citizen of the United States and over the age of eighteen years, upon the payment of three dollars.

ACT 1340g.

An act to authorize and regulate the possession, use, transportation and sale of trout or other fish, by persons engaged in the business of propagating and rearing such fish, and by persons who transport such fish, and by persons who purchase fish so reared.

[Approved March 17, 1911. Stats 1911, p. 378.]

Amended 1917; Stats. 1917, p. 940.

The amendment of 1917 follows:

§ 2. **Application for license.** Every citizen desiring to propagate and raise domesticated trout or other domesticated fish in any artificial body of water or private hatchery shall file with the fish and game commission a written application for a license so to do. Said application shall state the name, residence and place of business of the applicant and shall set forth the exact description of the land upon which said artificial body of water or private hatchery is to be located and the applicant's title to said land and the kind and number of fish desired to be kept therein. Said application shall be accompanied by a fee of five dollars, which, if such application be granted, shall be paid into the state treasury by the state fish and game commission to the credit of the fish and game preservation fund. [Amendment approved May 26, 1917; Stats. 1917, p. 941.]

§ 3. **No outlet or inlet.** All artificial bodies of water or private hatcheries in which domesticated trout or other domesticated fish may be propagated and raised under the provisions of this act shall be entirely within the exterior boundaries of the land owned or leased by the applicant for said license and there shall be no natural inlet or outlet for the waters contained therein. All artificial inlets and outlets of said artificial bodies of water or private hatcheries must be screened to prevent the ingress or egress of fish to or from any natural body of water. [Amendment approved May 26, 1917; Stats. 1917, p. 941.]

§ 4. **Granting of license. Permit to import domesticated fish.** Upon the receipt of said application the state board of fish and game commissioners shall make an examination of the land and waters described in the said application. All the expenses of the said examination shall be borne by the applicant. If it shall appear that the aforesaid artificial body of water or private hatchery has been constructed and screened according to the provisions of this act and the application is in other respects proper and reasonable, the said fish and game commission shall grant to such applicant a license to propagate and raise domesticated trout or other domesticated fish mentioned in the application and to

possess said domesticated trout or other domesticated fish during the entire calendar year. The license shall be posted or displayed in a conspicuous place on the land described in the application and shall expire on the last day of December in each year at midnight.

Upon obtaining a permit from the fish and game commission domesticated trout or other domesticated fish raised in a regularly licensed hatchery under the laws of any other state may be imported into this state, transported, sold or offered for sale during the entire calendar year upon the payment of a fee of five dollars per year; provided, that such imported domesticated trout or other domesticated fish shall be duly tagged in accordance with the rules and regulations to be prescribed by the fish and game commission. The permit issued under the provisions of this act shall be posted in a conspicuous place in the principal place of business of the person importing such fish and shall expire on the last day of December in each year at midnight. [Amendment approved May 26, 1917; Stats. 1917, p. 941.]

§ 5. **Domesticated fish may be sold during year.** Domesticated trout or other domesticated fish propagated and raised in this state under the license granted in accordance with the provisions of this act may be transported, sold or offered for sale during the entire calendar year when duly tagged according to the rules and regulations to be prescribed by the fish and game commission. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 6. **Tags.** The fish and game commission will furnish to each person to whom a license or a permit has been issued under the provisions of this act metallic tags inscribed with the letters "C. F. & G. C." Each applicant shall pay to the fish and game commission for such tags the actual cost of said tags. One of each of said tags shall be affixed to each domesticated trout or other domesticated fish raised under the provisions of this act and transported, sold or offered for sale and said tag shall remain so affixed until said domesticated trout or other domesticated fish has been prepared for consumption. The possession of any domesticated trout or other domesticated fish without such tag affixed thereto shall be a violation of this act. Only tags so furnished shall be used; no tag shall be used more than once. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 7. **Live trout transported.** Live trout, for propagation purposes only, may be transported when accompanied by a permit issued by the fish and game commission, and not otherwise. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 8. **Marking of package.** Before any domesticated trout, or other domesticated fish named in the aforesaid license or permit, are shipped or transported, the package in which the same are contained must have affixed thereto a tag on which shall be plainly marked the number of pounds and kind of fish contained therein, together with the name and address of the consignee and the consignor, the initial point of billing and the point of destination. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 9. **Sale of domesticated fish.** Any person may buy, sell or have in possession for sale for use as food at any season of the year any trout, or other domesticated fish, artificially propagated and kept; and provided, also, that the same is tagged as hereinbefore provided. The tag shall be removed only by the consumer, and when removed shall be destroyed. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 10. **Report to fish and game commission.** Every person receiving a license, as aforesaid, to propagate and raise trout, or other domesticated fish, shall make a written report to the fish and game commission on or before December thirty-first of each year, stating the number and variety of trout, or other fish named in the permit, sold or exchanged, or given away, for use as food, or for propagation or exhibition during the preceding year.

§ 11. **Public nuisance.** Any lake, pond, or any body of water maintained in violation of this act shall be deemed a continuing public nuisance, and may be abated as provided by law for the abatement of public nuisances, and each day the same is maintained in violation thereof shall be deemed a separate offense. [Amendment approved May 26, 1917; Stats. 1917, p. 943.]

§ 12. **Penalty for violation. License revoked.** The violation of any of the provisions of this act is hereby declared a misdemeanor and every person violating any of its provisions shall, upon conviction thereof, be fined in a sum not less than twenty-five dollars, or by imprisonment in the county jail for a term of not less than twenty days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this act shall be paid into the state treasury, to the credit of the fish and game preservation fund.

If any person to whom such license or permit shall have been issued, under the provisions of this act, shall be convicted of a violation of any of the fish and game laws of this state, the state board of fish and game commissioners may revoke the license or permit of such person and thereafter no similar license or permit shall be issued to such person. [Amendment approved May 26, 1917; Stats. 1917, p. 943.]

ACT 1340j.

An act to provide for the protection of fur-bearing mammals, defining fur-bearing mammals, providing for a license for hunting or trapping such fur-bearing mammals and requiring reports to be filed with the fish and game commission.

[Approved May 18, 1917. Stats. 1917, p. 653. In effect July 27, 1917.]

§ 1. **Killing fur-bearing mammals.** Every person who, between the first day of March and the first day of November of any year, traps, hunts, takes or kills any fur-bearing mammal is guilty of a misdemeanor.

§ 2. **Killing other than by trap or gun.** Every person who at any time takes, hunts or kills any fur-bearing mammal in any manner other than by trap or gun, or who shall at any time take or kill any skunk by

digging or driving them from dens or by use of chemicals is guilty of a misdemeanor.

§ 3. **Unlawful to use poison.** It shall be unlawful for any person to use poison of any kind in the taking or killing of any fur-bearing mammal; provided, however, that the fish and game commission may in its discretion issue to any person a permit to use poison in the taking or killing of any such mammal upon an application therefor, which application shall contain detailed information concerning the kind of poison desired to be used and when and where it is desired to use the same; provided, further, that such fur-bearing mammals injuring any property may be taken or killed at any time in any manner.

§ 4. **Trapping without license.** Every person in the state of California who traps for profit any fur-bearing mammals without first procuring a license therefor as provided by this act is guilty of a misdemeanor.

§ 5. **Licenses to trap for profit.** Licenses granting the privilege to trap for profit any fur-bearing mammals shall be issued by the state board of fish and game commissioners, who shall prepare suitable licenses of convenient size and form and have printed thereon the words, "trapping license No. ——, state of California. Expires June 30, 19—," with registration number and appropriate year printed or stamped thereon, which said license shall be prepared by the state board of fish and game commissioners, which board shall account for same to the controller of the state.

§ 6. **Fees.** Licenses herein provided for shall be issued as follows: (1) To any citizen of the United States upon payment of one dollar; (2) To any person not a citizen of the United States upon payment of two dollars; provided, however, that every person eighteen years of age or under by applying to the state board of fish and game commissioners and complying with the provisions of section four of this act, may obtain a license without the payment of any fee.

§ 7. **Name, address, etc. furnished.** Every person applying for and procuring a license as herein provided shall furnish to the state board of fish and game commissioners his name and resident address. Such applicant shall also furnish to the board of fish and game commissioners a written description of himself by age, height, nationality, color of eyes and hair and shall also give information relative to the sections of the state in which he intends to trap.

§ 8. **Term.** All licenses issued as herein provided shall be valid and shall authorize the person to whom issued to trap fur-bearing mammals for profit on and from the first day of July of the year in which said license is issued until the date of expiration written or stamped thereon, but no license shall continue in force for a longer period than one year.

§ 9. **Statement of mammals taken.** Every person to whom a license is issued, under the provisions of this act, must, before the first day of July following the date issued, send to the fish and game commission a sworn statement showing the number of each kind of fur-bearing mam-

mals taken together with the name and address of the firm or person to whom they were shipped or sold. A new license cannot be granted unless this provision is complied with; provided, however, that the provisions of this section shall not apply to persons eighteen years of age or under.

§ 10. **What are fur-bearing mammals.** For the purpose of this act, the following shall be considered fur-bearing mammals: Black and brown bear, ring-tailed cat, coon, pine martin, fisher, wolverine, mink, skunk, river otter, grey, cross, silver and red fox.

§ 11. **Moneys credited to game preservation fund.** All moneys collected from licenses as provided herein and all fines collected for violations of the provisions hereof shall be paid into the state treasury and credited to the game preservation fund.

§ 12. **No more than one license.** Not more than one license shall be issued to any one person for the same fiscal year, except upon an affidavit by the applicant that the one issued has been lost or destroyed and no license issued as herein provided shall be transferable or used by any other person than the one to whom it was issued.

§ 13. **Disturbing traps.** Every person who shall disturb or remove the traps of any licensed trapper while trapping on the public domain or on lands where he has permission to trap is guilty of a misdemeanor.

§ 14. **Refusal to exhibit license.** Every person having a license as provided herein who refuses to exhibit such license or any furs that may be in his possession or control upon the demand of any officer authorized to enforce the game and fish laws of this state or any peace officer of the state shall be guilty of a misdemeanor, and every person lawfully having such license who transfers or disposes of same to another person to be used as a trapping license or who violates any of the laws for the protection of game shall forfeit the same.

§ 15. **Penalty.** Every person violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than ten dollars or more than one hundred dollars or by imprisonment in the county jail for a term of not less than ten or more than one hundred days, or by both such fine and imprisonment.

ACT 1340k.

An act empowering the state board of health to examine sources from which shellfish are taken; making it unlawful to take shellfish from contaminated sources if determined by said board to be a menace to health; making violations of this act misdemeanors and providing for the punishment of same.

[Approved April 5, 1917. Stats. 1917, p. 42. In effect July 27, 1917.]

§ 1. **Taking of oysters, etc., unlawful, when.** It shall be unlawful to take oysters, clams, quahaugs, mussels or other shellfish used or intended to be used for human consumption from any tidal waters, flats, areas

or sources from which the taking of such shellfish shall be determined to be a menace to health as hereinafter provided.

§ 2. **Examination of tidal waters, etc., by state board of health. Posting of notices.** The state board of health may and is hereby empowered to examine any tide waters, flats, areas or sources from which oysters, clams, quahaugs, mussels or other shellfish may be taken, and to determine whether such waters, flats, areas or sources are subject to sewage contamination, and to determine whether the taking of such shellfish from such waters, flats, areas or sources does or may constitute a menace to the lives and health of human beings. Upon the determination by said state board of health that such waters, flats, areas or sources are or may be subject to sewage contamination and that the taking of shellfish therefrom does or may constitute a menace to the lives and health of human beings, said board shall ascertain as accurately as may be the bounds of such contamination, and shall cause the posting of notices prohibiting the taking of shellfish from such sources and describing the bounds of the tidal flats, waters, areas or sources from which the taking of shellfish shall be unlawful. The fact of the posting of such notices shall be published once a week for four successive weeks in some newspaper of general circulation, published in the county in which such waters, flats, areas or sources are situated, if there be one, and if there be none, then in a newspaper published in an adjoining county.

§ 3. **Enforcement.** It shall be the duty of the state board of health to enforce the provisions of this act and its inspectors and employees are hereby empowered to enter upon public or private property upon which shellfish may be located at all times for the purposes of this act.

§ 4. **Penalty.** Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars or by imprisonment for a term of not more than six months, or by both such fine and imprisonment, but such penalties shall not be incurred until the fact of such prohibition shall have been published for four successive weeks, as above provided. Each day's violation shall constitute a separate and distinct offense.

ACT 13401.

An act to license canners, curers, preservers and packers of fish and handlers of crustaceans and mollusks, and providing a revenue therefrom for the conservation, propagation and restoration of fish in the state of California, and providing for a record of fish caught or received, and providing penalties for the violations of the provisions thereof, and repealing all acts and parts of acts in conflict therewith.

[Approved May 28, 1917. Stats. 1917, p. 1275. In effect July 27, 1917.]

§ 1. **Unlawful to can, etc., fish without license.** Any person in this state, who engages in the business of canning, curing, preserving or packing fish, which are taken in the waters of this state or are brought

into this state in a fresh condition; or of manufacturing fish scrap, fish meal, fish oil, chicken feed or fertilizer from fish or fish offal; or of dealing in mollusks or crustaceans by wholesale, without first procuring a license for each plant or place of business is guilty of a misdemeanor.

§ 2. **Licenses prepared by controller.** The controller of state shall prepare suitable licenses, of the classes designated by the fish and game commissioners, which shall license the holder of such license to can, cure, preserve or pack fish, to manufacture fish meal, fish oil and other products from fish, and to deal in mollusks and crustaceans by wholesale in this state, (subject to the restrictions provided by law) as provided in section 1 of this act, for the term of one year from the first, day of July of one year to the thirtieth day of June of the year following. All licenses shall be numbered consecutively, beginning with number one and contain blanks for the insection of the name of the holder, his residence, and place of business, which information shall be furnished by the applicant to the board of fish and game commissioners. The controller shall sign all licenses and deliver the same to the fish and game commissioners, on demand, who shall be charged for the same by the controller. Each license, before delivery to the applicant for a license, must be countersigned by the president of the board of fish and game commissioners and the president of the board of fish and game commissioners shall execute a bond to the people of the state of California in the sum of two thousand dollars for the faithful performance of the duties imposed upon him by this act.

§ 3. **Issued to whom.** Licenses shall be issued and delivered upon application to the state board of fish and game commissioners or their deputies. The licenses herein provided for shall be issued as follows: To any citizen of the United States and to any person who has duly made his declaration of intention to become a citizen of the United States as provided by law, upon the payment of five dollars; to any person not a citizen of the United States, upon the payment of twenty dollars. In case a license is lost or destroyed, a duplicate may be issued to any licensee by the fish and game commission, upon an affidavit by him that the one issued has been lost or destroyed. Every person having a license as provided herein, who refuses to exhibit such license upon demand of any officer authorized to enforce the fish and game laws of this state, or any peace officer of this state, or who transfers or disposes of the same to another person to be used as a license, shall forfeit this license.

§ 4. **Payment of fees.** The said license fees must be paid to the fish and game commissioners or to some one designated by them for that purpose.

§ 5. **Record of fish purchased. Monthly statement to fish and game commission.** Every person operating under a license as provided in section one of this act, and every person dealing in fresh fish shall keep a book or books in which shall be entered a full and correct record, in the English language, of all fresh fish purchased or received by them

from fishermen or taken by themselves, giving the names of the different species, and the number of pounds so received or caught of each different species, and the name and address of the person or persons from whom such fish were received. Said book or books are to be open at all times for the inspection of members of the fish and game commission or persons duly authorized by them. They shall also render to the fish and game commission, on or before the tenth day of each month on blanks to be furnished by the said fish and game commission, a true and correct statement showing the amount of each species of fresh fish, stated separately, so purchased, received or caught during the previous month, together with the name and address of the person or persons from whom such fish were received or purchased. Said monthly statetments are to be accompanied by an affidavit to the effect that the said report is a true and correct statement of all the fish received from fishermen or caught by themselves during the time covered by the report.

§ 6. **Receipts to fishermen.** Every person operating under a license as provided in section 1 of this act, and every person dealing in fish who receives fish from fishermen shall issue receipts to the fishermen from whom fish are received and shall give in such receipt the date of issuance, the name of the fisherman or fishermen to whom issued, the weight in pounds of each variety of fish received, the price per pound paid to the fishermen, and the signature of the dealer who issued the receipt. A duplicate manifold copy of this receipt shall be kept on file by the dealer issuing the same, for a period of six months and the said duplicate copy shall be available for inspection at any time within six months, upon demand of the fish and game commissioner, or any duly authorized assistant thereof.

§ 7. **Privilege tax. Quarterly report of fresh fish purchased. Affidavit. Forfeiture of license.** Every person operating under a license, as provided in section one of this act, shall, in addition to the license fee, pay a privilege tax of two and one-half cents for each one hundred pounds, or fraction thereof, of fish purchased or received by them, or fish caught or taken by themselves, with their own equipment; provided, that any fish, excepting mollusks and crustaceans, so taken or received, which are utilized for human consumption in its fresh state, shall not be subject to such tax; and provided, further, that herring and buck shad shall also be exempt from the tax provided herein; and such person shall, in addition to making a monthly report as provided in section five of this act, make a quarterly report to the fish and game commission, showing the total amount of fresh fish, in pounds, purchased, caught or received by them (for purposes other than human consumption in its fresh state), and of mollusks and crustaceans purchased or received by them from fishermen, or caught by themselves, whether they be used fresh or otherwise, during the three months next preceding March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Blanks for this report shall be furnished by the fish and game commission, and such report shall be rendeded to the fish and game commission, not later than the fifteenth day of the month following

the months of March, June, September and December of each year. Said reports shall be accompanied by an affidavit by the person or firm purchasing, taking, catching or receiving such fish, to the effect that said report is a true and correct record of all fish caught or received by them (for purposes other than human consumption in its fresh state); and of all mollusks and crustaceans purchased or received from fishermen, or caught by themselves, during the quarterly period covered by the report. Upon the failure of any person operating under a license, as provided in section one of this act, to pay the privilege tax provided herein, said person shall forfeit his license for a period of one year. Said privilege tax shall be paid to the fish and game commission, or some one authorized by them, within thirty days after the close of each quarterly period.

§ 8. **Moneys used for conservation work.** All moneys collected from the sale of licenses and from the privilege tax on fish, as herein provided, shall be paid to the fish and game commissioners, or some one designated by them for that purpose and all money so collected shall be paid by the fish and game commissioners into the state treasury, to the credit of the fish and game preservation fund, and shall be expended on conservation work for the benefit of the commercial fishing industries within the districts from which the revenues are derived.

§ 9. **Penalty for violation.** The violation of any of the provisions of this act is hereby declared a misdemeanor, and every person violating any of its provisions, shall, upon conviction thereof, be fined in a sum not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for a term of not less than twenty-five nor more than one hundred fifty days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund.

§ 10. **Repealed.** All acts and parts of acts in conflict herewith are hereby repealed.

ACT 1439b.

An act to authorize the board of state harbor commissioners of San Francisco harbor to pay the claim of the Fidelity and Deposit Company of Maryland. [Approved May 31, 1917. Stats. 1917, p. 1514. In effect July 30, 1917.]

This act authorized the harbor commissioners to pay the claim of the Fidelity and Deposit Company of Maryland for the sum of $1,218.92.

TITLE 229.

HIGHWAYS.

ACT 1447.

An act authorizing any county to permit the construction and maintenance of a highway or boulevard over highways within its limits connecting with main public highways of an adjoining county by

the board of supervisors or highway commissioners of such adjoining county, permitting boards of supervisors of such adjoining counties to construct and maintain such bridge or bridges on such highways or boulevards as they may deem necessary, permitting such boards of supervisors to macadamize or pave or gutter such highways or boulevards, providing the manner in which the cost and expense thereof shall be paid, and prescribing the procedure whereby the use, control, maintenance and jurisdiction of any highway or boulevard constructed under the provisions of this act may be retransferred to the county originally granting the use thereof.

[Approved April 6, 1917. Stats. 1917, p. 88. In effect July 27, 1917.]

§ 1. Counties permitted to maintain highways connecting with those of another county. Any county in this state is hereby authorizezd and empowered to permit, by and through an ordinance of its board of supervisors, the use of any of its public highways connecting with any main public highway of an adjoining county by the board of supervisors or highway commissioners of such adjoining county, for the purpose of constructing and maintaining thereon a highway or boulevard serving the needs of residents of both counties; and the board of supervisors of any such adjoining county, if it accepts the provisions of the ordinance adopted by the board of supervisors of the county granting the use, shall have the power to construct and maintain any such highway or boulevard, or to construct or maintain such bridge or bridges on such highway or boulevard as it may deem necessary, or to macadamize, pave, curb or gutter such highway or boulevard in such manner as it may determine, and the cost or expense thereof shall be paid out of the general fund of the county treasury, or such other fund as the board of supervisors may designate, or which shall otherwise be provided, of the county to which the use is granted. The boards of supervisors of any counties proceeding under the provisions of this act may by mutual consent, expressed through ordinances of the respective boards, retransfer the use, control, maintenance and jurisdiction of any highway or boulevard constructed under the provisions hereof to the county originally granting the use.

ACT 1447a.

An act making an appropriation to pay any assessment that may be imposed against the state of California under the provisions of an act entitled "An act providing for the creation, organization and government of joint highway districts composed of two or more counties of the state of California," approved April 5, 1917; to pay the share of the state of California under any agreement or agreements with the United States government for co-operative work in the construction, improvement or maintenance of highways useful for military purposes and authorizing the state department of engineering to enter into any such agreements; and to pay the cost of making surveys and preparing plans and estimates for the following highways: An extension of the Trinity-Humboldt state road,

from its westerly end, in a westerly direction, and to the town of Bridgeville, in Humboldt county; a highway beginning at or near Oxnard in Ventura county, California, and extending to a point near San Juan in Orange county, California; a highway from Jackson's ranch near Pescadero in San Mateo county, California, to Governor's Camp in the California Redwood Park, Santa Cruz county, California; a highway beginning at Carmel in Monterey county, California, and running thence in a southerly direction to San Simeon in San Luis Obispo county, California, and a lateral highway from a point most feasible thereon to a point at or near Jolon in said Monterey county; a bridge to span San Francisco bay at or near Dumbarton Point; and a highway from the western boundary line of Kern county, California, to the state highway near the city of Santa Maria, Santa Barbara county, California. [Approved June 1, 1917. Stats. 1917, p. 1519. In effect July 31, 1917.]

The act appropriated $250,000 for the purpose indicated.

ACT 1448.

An act providing for the laying out, constructing, straightening, improvement and repair of main public highways in any county, providing for the voting, issuing, and selling of county bonds and the acceptance of donations to pay for such work and improvements, providing for a highway commission to have charge of such work and improvements, and authorizing cities and towns to improve the portions of such highways within their corporate limits and to issue and sell bonds therefor.

[Approved March 19, 1907. Stats. 1907, p. 666.]

Amended 1909, p. 151; 1911, pp. 505, 589; 1911 (Ex Sess.), p. 65; 1913, p. 324; 1917, p. 154.

The amendment of 1917 follows:

§ 10. Improvements must be durable. Highway shall not be used by railroad. Use of highway by railroad in incorporated city. All improvements constructed under this act shall be of a durable and lasting character; provided, that said commission shall have the power to determine how said highways shall be improved and constructed, and the character of the materials to be used in the improvement and construction thereof. If said commission shall determine that said highways, or any of them, shall be macadamized or paved, then the macadamized or paved portion of the roadbed constructed or any highway portion thereof improved under this act, shall not exceed eighteen feet in width, unless donations are made to the highway commission for that purpose, in which case such donations may be used to defray the increased cost of constructing such macadamized or paved roadbed more than eighteen feet wide on any part of such highway specified by the donors; but no part of the proceeds of any bond issue shall be expended for such purpose. No railroad, electric road, or street railroad shall be constructed along or upon any highway, or any portion thereof, improved under the provision of this act, except for crossings duly au-

thorized by the board of supervisors, nor shall any board of supervisors have power to grant any franchise for the construction of any railroad, electric road, or street railroad along or upon any such highway or portion thereof, except for crossings; provided, that when any such highway or portion thereof shall, after the improvement of the same under the provisions of this act, be included within the boundaries of any incorporated city, city and county or town the foregoing provisions of this section shall not prohibit the granting of any such franchise by the proper municipal authorities along, upon or across any such highway, or portion thereof so included within the boundaries of any such incorporated city, city and county, or town. Any such franchise shall be granted only upon the express condition that the grantee thereof will pay to the county for the benefit of the general fund thereof an amount equal to the cost of the improvement or construction of such portion of the roadbed or highway constructed or improved under the provisions of this act as shall be occupied by the track or tracks of such railroad, electric road or street railroad. [Amendment approved April 20, 1917; Stats. 1917, p. 154.]

ACT 1448a.

An act to legalize the organization of permanent road divisions and validate all proceedings for the issuance of bonds of said divisions where authority for issuance of said bonds has already been given by a vote of at least two-thirds of the electors of any permanent road division.

[Approved April 19, 1917. Stats. 1917, p. 141. In effect July 27, 1917.]

§ 1. Organization of permanent road divisions validated. Time for instituting suit. In all cases where the board of supervisors of any county of this state, purporting to act under and by virtue of the proceedings of the Political Code applicable thereto, has organized a permanent road division, all proceedings for the organization of any such road division and the organization thereof are hereby validated and declared legal and no proceedings to test the validity of any such road division shall be maintained unless instituted within ninety days from the effective date of this act. Whenever the board of supervisors of any county has ordered the issuance of bonds of any such road division, after an election of the qualified electors thereof has been held to determine whether such indebtedness shall be incurred, at which election not less than two-thirds of all the qualified electors voting at such election have voted in favor of incurring such indebtedness, all the proceedings preceding and including the issuance and the proposed issuance of such bonds are hereby validated, ratified and confirmed; and all such bonds sold or to be sold for not less than par and accrued interest are hereby declared to be valid and legal obligations of such road divisions in accordance with their terms, and no suit shall be maintained to prevent the issuance, sale or delivery of any such bonds or to prevent the payment of principal or of the interest accruing thereon when such principal and interest, respectively, become due in accordance with the terms of such bonds, unless such suit is instituted within ninety days from the effective date of this act.

ACT 1449a.

An act to provide for the formation and establishment of boulevard districts; the construction, acquisition, maintenance, control and use of boulevards; defining the term boulevard; providing for the voting, issuing and selling of bonds, and the levying of taxes to pay for the acquisition, construction, maintenance and repair of such boulevard; providing for a boulevard commission to have charge of the affairs of boulevard districts, and the construction, maintenance and repair of boulevards, within such districts; providing for the election of such commission, their terms of office, and of elections to be held in such districts; and repealing an act entitled "An act to provide for the formation of boulevard districts, and the construction, maintenance, and use of boulevards, and defining the term boulevard," approved March 22, 1905, and the act amendatory thereof, approved April 15, 1909.

[Approved May 1, 1911. Stats. 1911, p. 1425.]

Amended Ex. Sess. 1911, p. 223; 1913, p. 394; 1917, p. 1299.

The amendment of 1917 follows:

§ 1. **Boulevard district formed.** Any portion of a county not contained in a boulevard district under the provisions of this act, may be formed into a boulevard district, and when so formed shall be known and designated by the name and style of —— boulevard district (using the name of the district) of —— county (using the name of the county in which said district is located), and shall have the rights herein enumerated, and such as may hereafter be conferred by law.

§ 2. **Petition to board of supervisors. Bond filed.** A petition for the formation of such boulevard district (naming it) may be presented to the board of supervisors of the county wherein the district is proposed to be formed, which said petition shall be signed by not less than ten freeholders, owning land within the proposed district and shall contain:

(1) The boundaries of the proposed district and an estimate of the number of inhabitants residing therein;

(2) An estimate of the number of acres contained therein and the assessed value thereof and of the improvements thereon;

(3) A request that an election be called within said district for the purpose of determining the question of the formation of said boulevard district, for the construction and maintenance of a boulevard or boulevards therein under the provisions of this act.

There shall be filed with said board of supervisors at the time of the filing of the petition for the organization of said boulevard district with said board, a bond in the sum of not more than three hundred dollars, with two sufficient sureties, to be approved by said board, who shall each qualify in double the amount of said bond, conditioned that they will pay the expense and cost of said election in an amount not exceeding the amount mentioned in said bond, in case the proposition to organize said district shall be defeated at said election.

§ 3. **Hearing on petition.** Such petition must be presented at a regular meeting of said board of supervisors and they shall thereupon fix a time for hearing said petition, not less than twenty, nor more than sixty days after the date of presentation thereof, and shall publish a notice of the fact that such petition has been filed (referring to the same on file with the clerk of the board of supervisors for further particulars) and giving the time and place at which said petition will be heard, and directing all parties interested to appear at said time and place, and show cause, if any they have, why said petition should not be granted, which said notice shall be published at least once a week for two consecutive weeks in some newspaper published and circulated in said proposed district; provided, that if no newspaper be so published in said district, then said notice shall be so published in some newspaper published and circulated at the county seat of the county in which said proposed district is located.

§ 4. **Land excluded. Lands included.** Upon the day named for the hearing of said petition, the board of supervisors shall hear the same and any objections thereto and may adjourn such hearing from time to time, not more than sixty days in all. If the board find that lands have been improperly included, it may in fixing the final boundaries exclude from such district any lands which may have been so included, or the board may, as it deems for the best interests of such district, include any adjacent lands outside the boundaries described in said petition, either on petition of the owners of such lands. or upon notice of its intention to include such adjacent lands by publication once a week for two successive weeks in a newspaper of general circulation published either in said district or at the county seat, which notice shall refer to the petition for the formation of the district on file with the board of supervisors, shall describe the adjacent territory intended to be included within the proposed boundaries of said proposed district and shall direct all persons interested therein to appear at a specified time and place and show cause if any there be why said adjacent lands should not be so included. Upon the petition and evidence produced at such hearings the board shall determine and fix the boundaries of such district and must thereupon, by order, define and establish such boundaries.

§ 5. **Election. Notice.** The board of supervisors thereupon, and not later than thirty days after the establishment of said boundaries, as hereinbefore provided, shall by order, call an election to be held in such proposed boulevard district for the purpose of determining whether such district shall be formed. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district, and must state that at such election one member of the boulevard commission will be voted for. This order shall be entered in the minutes of the board, and shall be conclusive evidence of the due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signing and presentation of such petition, a freeholder owning land within the

proposed district and that all other steps and actions requisite to and pertaining to the making of said order, including the hearing of said petition and establishment of the boundaries of said district, have been properly taken; notice of such election shall be given by posting a copy of such order for three successive weeks prior to the election, in three public places within the proposed district, and by publication of a copy of such order at least once a week for three successive weeks prior to the election in some newspaper published in the proposed district, if there be one, and if not, in some newspaper published at the county seat.

§ 6. Polling places. Election officers. Ballots. Election of member of boulevard district. Canvass of returns. The board of supervisors, at least fifteen days prior to the election, shall select one, and may select two, polling places within the proposed district, and make all suitable arrangements for the holding of such election. They must select and appoint, from among the qualified electors of the proposed boulevard district, one inspector and two judges of election in each polling place, who shall constitute the officers of said election and the election board; if none are so appointed or if any officer appointed does not attend at the opening of the polls on the morning of election, the electors present may appoint substitutes to fill the election board. The ballot shall contain the words "boulevard district—yes," and "boulevard district—no," and shall also make provision for voting for one member of the boulevard commission of said district. At such election there shall be elected one member of the boulevard commission, whose term of office shall be for four years and until the election, or appointment, and qualification of his successor. Such election, and all subsequent, or other, elections in said district shall, except as herein otherwise expressly provided, be conducted as nearly as practicable in accordance with the general election laws of the state, except that the provisions of said laws as to the form of ballots and the making of nominations and the selection or appointment of officers of election, shall not apply, and that no irregularity or informality in conducting any election under this act, not substantially affecting adversely the legal rights of any elector, as herein defined, shall invalidate or affect such election. At each election pursuant to this act, every qualified elector, resident within the district as proposed or established, and who would be entitled on the date of the respective election to vote in said district at a general election, shall be entitled to vote at such election. The said officers of election must make return of the election to the board of supervisors of said county, which shall canvass said returns as by law provided, and if a majority of the votes cast at such election shall be in favor of a boulevard district the board of supervisors shall make and cause to be entered in the minutes of said board an order that the boulevard district of the name, and with the boundaries theretofore established by said board (setting forth such boundaries), has been duly established, and shall declare the person receiving the highest number of votes for member of the boulevard commission, duly elected as

such commissioner; and said order shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided for by this act or by law, and of the existence and validity of the boulevard district. If a majority of the votes cast shall be against a boulevard district, the board shall by order entered in its minutes so declare, and no other proceeding shall be taken in relation thereto until the expiration of one year from the date of the presentation of the petition to said board.

Sections 7 to 23, inclusive, of the original were repealed by the amendatory act of 1917 and the following new sections were added:

§ 7. Officers. Vacancy. Appointment of member by state highway commission. Term. Bond. No compensation. The officers of the district shall be three members of the boulevard commission, who shall be designated as commissioners, and shall be, except as hereinafter provided, the chairman of the board of supervisors and the county surveyor, or the county engineer, as the case may be, of the county in which the district is situated, who shall be ex-officio commissioners, and a third commissioner elected as herein provided who must have been a bona fide resident and freeholder within the boundaries of the district for at least one year prior to his election. Any vacancy in the office of commissioner shall, except as hereinafter provided, be filled by appointment for the unexpired term by the board of supervisors from among the bona fide resident freeholders within said district who shall have been such resident freeholders for at least one year prior to such appointment, but no member of the said board of supervisors, except the chairman thereof, shall be eligible to hold office on said commission or to hold any position in connection therewith. At any time, upon petition in writing signed by at least twenty-five per cent in number of the number of qualified electors, residing within the district and named upon the great register of the county in which the district is situated, and presented to the state highway commission, the said state highway commission shall, and it is hereby empowered to, declare the office of boulevard commissioner theretofore held by the said county surveyor, or county engineer, as the case may be, vacant, and nominate and appoint as commissioner to fill such vacancy a person who shall be a civil engineer, qualified in the opinion of the state highway commission to act as such commissioner. The commissioner so appointed shall hold office for the term of four years from and after his appointment, and until the appointment and qualification of his successor, and all appointments to fill any vacancy in the office of such commissioner either during or at the expiration of his term of office shall be made by the state highway commission upon the receipt of written notice from the boulevard commission of such vacancy or expiration, but no petition shall be necessary therefor. Each commissioner shall give a bond to the boulevard district for the faithful performance of his duties in the sum of five thousand dollars, to be approved by a judge of the superior court of the county in which the district is located. The commissioners shall receive no compensation whatever either for general or special services. [New section added May 29, 1917; Stats. 1917, p. 1604.]

§ 8. **Election every fourth year. Notice. Polling places and election officers. Canvass of returns.** An election shall be held in each boulevard district on the first Monday after the first Tuesday in March in the fourth year after the formation of the district, and in every fourth year thereafter, at which shall be elected a commissioner in place of the elected commissioner whose term shall expire during such year. Not less than twenty days before the day of each such election the boulevard commission must give notice of said election by posting notice thereof in three public places in the boulevard district, which notice must specify the time and place of election, the hours during which the polls will be kept open, and the officer to be elected. They shall select one, and may select two polling places within the district; shall appoint one inspector and two judges of election in each polling place, and make all necessary and proper arrangements for holding the election. Said election officers shall constitute the election board. If no election officers are so appointed, or if any of those appointed are not present at the time of the opening of the polls, the electors present may appoint all, or any, of them so absent or not appointed and they shall conduct the election as if so appointed by said commission and present. The officers of the election must publicly canvass the votes immediately after the closing of the polls, and must make return of the election within twenty-four hours after the closing of the polls to the board of supervisors. Said board of supervisors at its first meeting after receiving said returns shall canvass the same and shall make, sign and deliver a certificate of election to the person elected. [New section added May 29, 1917; Stats. 1917, p. 1304.]

§ 9. **President and secretary.** The boulevard commission shall be the governing body of the district, and shall exercise all the powers thereof. At its first meeting or as soon thereafter as may be practicable, the commission shall choose one of its members as president, and another of its members as secretary. All contracts, deeds, warrants, releases, receipts and documents of every kind shall be signed in the name of the district by its president, and shall be countersigned by its secretary. The commission may hold such meetings, either in the day or in the evening, as may be convenient, all such meetings of the commission must be held in the district at an appointed place. In case of the absence or inability to act of the president or secretary, the commission shall, by order entered upon its minutes, choose from its members a president pro tempore, or secretary pro tempore, as the case may be. A majority of the members of the commission is a sufficient number to form a commission for the transaction of business, and every decision of a majority of the members forming such commission made when duly assembled, is valid as an act of said commission. [New section added May 29, 1917; Stats. 1917, p. 1305.]

§ 10. **Powers of district.** Every boulevard district formed under the provisions of this act shall have power to have and use a common seal, alterable at the pleasure of the boulevard commission; to sue and be sued by its name; to lay out, establish, construct, acquire and maintain one or more boulevards within the district, and for this purpose to ac-

quire by purchase, gift, devise, condemnation proceedings or otherwise real and personal property and rights of way within the district, and to pay for and hold the same; provided, however, that if any boulevard or boulevards are constructed with moneys raised by taxation and not from the sale of bonds as herein provided, such boulevard or boulevards shall be constructed only after an election to be had in the manner herein provided for elections in said district, for the purpose of determining whether such boulevard or boulevards shall be constructed and at which election a majority of the votes cast are in favor of the construction of such boulevard or boulevards; to make and accept any and all contracts, deeds, releases and documents of any kind which shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to provide for the payment of the same and the interest thereon; and to cause to be levied taxes sufficient when directed by a vote of the people of the district for the construction, maintenance or repair of said boulevard, or boulevards, and all indebtedness of such district, and the running expenses of the district; to employ all necessary engineers, surveyors, agents and workmen to do the work on or in connection with the boulevard or boulevards in said district; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers or the purposes for which it was formed. [New section added May 29, 1917; Stats. 1917, p. 1305.]

§ 11. **"Boulevard."** By the term "boulevard" as used herein is meant a highway not less than thirty and not more than one hundred feet in width, and upon, along, and over the portion or portions of which where the same is less than sixty feet in width no railroad, electric road, or street railroad shall, except upon a permit granted therefor by the board or body in control of such boulevard evidence by an order entered in its minutes, be constructed or operated; and any easements granted or condemned for the building of said boulevard shall be so granted or condemned; provided, that nothing herein shall be deemed to apply to or as preventing or limiting the use of vehicles across said boulevard. Any boulevard constructed under this act may be constructed, in whole or in part, over, along, or upon any county road or public highway, or any part thereof, and the moneys belonging to such boulevard district may be expended in the improvement of such road or highway to conform to the width and general character of the balance of the boulevard, and for the purposes of this act the boulevard district is hereby expressly authorized and empowered to take over, control, operate, and use in whole or in part any such county road or public highway. [New section added May 29, 1917; Stats. 1917, p. 1306.]

§ 12. **Survey, etc., of proposed boulevard.** The boulevard commission shall, before the construction of any boulevard and before the calling of any election for the issuance of bonds, employ an engineer or engineers who shall make all necessary surveys, prepare a map or maps showing the location of the said proposed boulevard or boulevards, also showing a cross-section and profile of said proposed boulevard or boule-

vards, together with specifications for the construction thereof and estimates of the cost of acquiring rights of way therefor and of the cost of the construction thereof, which said surveys, maps, specifications and estimates, shall, upon the approval of the same by said commissioner, by order entered upon its minutes, be formally adopted by said commission and filed with its secretary and constitute the plan of said district for such proposed boulevard or boulevards; provided, that the said boulevard commission may, at its option, and it is hereby empowered to, direct the county surveyor, or county engineer, as the case may be, to do any or all of said work herein provided to be done by an engineer or engineers. [New section added May 29, 1917; Stats. 1917, p. 1307.]

§ 13. Bond election. Notice. At any time, and from time to time, after the adoption of a plan for a boulevard or boulevards, the boulevard commission may, by order entered in its minutes call an election for the purpose of determining whether bonds shall be issued for the acquisition of rights of way for, and the construction of, such boulevard or boulevards. Such order shall fix the day of the election and shall specify the amount of such bond issue, and shall state in general terms the purposes for which the money to be raised from the sale of such bonds shall be used, which purposes shall be confined to the acquisition of rights of way for, and the construction of, a boulevard or boulevards in said district; provided, however, that any moneys so raised which shall remain on hand after such acquisition of rights of way and construction have been completed, may and shall be expended in the betterment and maintenance of such boulevard or boulevards. Notice of such election shall be given by posting a copy of such order for three successive weeks prior to the election in at least three public places within the district, and by publication of a copy thereof for at least once a week for three successive weeks prior to the election in some newspaper published within the district, if there be one, and if not, in some newspaper published at the county seat of the county in which such district is located. [New section added May 29, 1917; Stats. 1917, p. 1307.]

§ 14. Polling places and election officers. Canvass of returns. At any time prior to the day fixed for the election the commission shall select one, and may select two, polling places within the district, and select and appoint from among the qualified electors within the district, one inspector, and two judges for each polling place to conduct the same, and shall make all necessary and proper arrangements for holding the election. The ballots shall contain the words "bonds, yes" and "bonds, no." After the votes shall have been counted and the result announced by the election officers the ballots shall be sealed up and delivered to the secretary of the boulevard commission with the election returns, and said commission shall, at its first meeting thereafter, canvass said returns and shall enter the result upon its minutes. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry. If, at such election, not less than two-thirds of the votes cast be in favor of the issuance of bonds, the said commission shall have full power and authority to issue and sell said bonds as proposed in the order calling the election and as hereinafter provided. If the result of the election be against the issuance of bonds no other

election upon the question shall be called or held for one year after such election. [New section added May 29, 1917; Stats. 1917, p. 1307.]

§ 15. Denomination. Payment. Sale. All bonds issued under the provisions of this act shall be of such denomination as the boulevard commission may determine, except that no bonds shall be of less denomination than one hundred dollars nor of a greater denomination than one thousand dollars. Said bonds shall be payable in gold coin of the United States at the office of the county treasurer of the county wherein said district is situated, and shall bear interest at a rate not exceeding six per centum per annum; which interest shall be payable semi-annually in like gold coin. Not less than one-thirtieth part of the total issue of bonds shall be payable each year, commencing not more than five years after the date of said bonds. Each bond shall be signed by the president and countersigned by the secretary of the boulevard commission, and said bonds shall be numbered consecutively, in the order of their maturity, and shall have coupons for interest attached, attested by the facsimile signature of the secretary of said commission. The bonds may be sold by the boulevard commission in such manner and in such quantities as it may determine, but no bond may be sold for less than its face value. The proceeds of such sale shall be deposited with the county treasurer and shall be by him placed in the fund to be called the boulevard fund of —— boulevard district (naming it); the money in such fund shall be used for the purposes indicated in the order calling the election upon the question of the issuance of bonds. [New section added May 29, 1917; Stats. 1917, p. 1308.]

§ 16. Estimate of amount needed. The commission must at or before the first meeting of the board of supervisors in September of each year, furnish the supervisors and the auditor of the county wherein the district is situated, an estimate in writing of the amount of money needed for the purposes of the district for the ensuing fiscal year The amount must be sufficient to pay all interest and principal of outstanding bonds of the district maturing during the ensuing fiscal year, and to pay the estimated cost of repairs and maintenance of the boulevard, or boulevards, and the running expenses of the district. [New section added May 29, 1917; Stats. 1917, p. 1308.]

§ 17. Levy of tax. Collection. Moneys from general fund. Constitutionality. The board of supervisors of any county wherein is situated a boulevard district, must annually at the time of levying county taxes levy a tax to be known as the "—— (name of district) boulevard district tax," sufficient to raise the amount reported to them as herein, in section sixteen hereof, provided by the boulevard commission. The supervisors must determine the rate of such tax by deducting fifteen per cent for anticipated delinquencies from the total assessed value of the real property of the district within the county, as it appears on the assessment-roll of the county, and dividing the sum reported by the boulevard commission as required to be raised by the remainder of such total assessed value. The tax so levied shall be computed and entered on the assessment-roll by the county auditor, and if the supervisors fail

to levy the tax as provided in the preceding section, then the auditor must do so. Such tax shall be collected at the same time and in the same manner as county taxes, and when collected shall be paid into the county treasury for the use of said district, and the purposes herein specified. The provisions of the Political Code of this state prescribing the manner of levying and collecting taxes and the duties of the several county officers with respect thereto are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act. All moneys raised by taxation as herein provided shall belong to said district. Anything in this act to the contrary notwithstanding the board of supervisors shall set apart and turn over to the boulevard commission out of the general fund of the county twenty-five per cent of the cost of acquisition of rights of way for, and of construction of, said boulevard or boulevards and also twenty-five per cent of the cost of maintenance and repair of said boulevard or boulevards, all such moneys to be used by the boulevard commission for such purposes respectively, and the board of supervisors shall set apart and use for road work in the boulevard district all moneys raised in such district by the county for road purposes; provided, however, that if for any reason the provisions, or any thereof, of this sentence are unconstitutional or affect the constitutionality of this act or any of the provisions thereof, then this sentence, or such provisions thereof, only, shall be void and the remainder of this act shall stand as if this sentence, or such provisions thereof, as the case may be, had not been included in this act, the same being hereby declared to be separable. [New section added May 29, 1917; Stats. 1917, p. 1309.]

§ 18. **Funds kept by county treasurer.** The treasury of the county wherein the district is situated shall be the repository of all the funds of the district. The treasurer of the county shall receive and receipt for the same, and shall place the same to the credit of the boulevard district. He shall be responsible upon his official bond for their safekeeping and disbursement in the manner herein provided. [New section added May 29, 1917; Stats. 1917, p. 1310.]

§ 19. **Funds established.** The following funds are hereby established to which the money belonging to the district, and raised by taxation as herein provided, shall be apportioned by the treasurer, to wit: bond fund, construction and maintenance fund, and district expense fund. The treasurer shall pay out the same only upon warrants of the boulevard commission, signed by the president and attested by the secretary, except that all bonds and coupons shall be paid on presentation by the county treasurer out of the bond fund without such warrant. The treasurer shall report in writing to the commissioners whenever requested by them or the secretary the amount of money in the various funds, the amounts of receipts since his last report and the amounts paid out. [New section added May 29, 1917; Stats. 1917, p. 1310.]

§ 20. **Bids. Award to lowest bidder. Change in place. Repair work without bids.** The boulevard commission shall, pursuant to an order

entered in its minutes, advertise for bids for the construction of such boulevard or boulevards, either as a whole or in such sections as it may see fit, in accordance with the plan theretofore adopted and filed, as hereinbefore provided by said commission, by publishing a notice calling for such bids, at least once a week for two successive weeks in a weekly newspaper published within the boulevard district if such newspaper is published therein, otherwise in a newspaper published at the county seat of the county in which such district is located. Such notice shall refer to said order and said plan for further particulars. If the commission shall elect to receive separate bids for the construction of sections of said boulevard or boulevards, the said order shall describe the separate sections for which such separate bids are desired. The commission may also in its discretion advertise at the same time and in the same notice both for bids for the construction of such boulevard or boulevards as a whole and for bids for the construction of separate sections thereof. Every contract for doing any part of said work shall be let, after advertisement as herein provided, to the lowest responsible bidder, who shall, before the making of said contract, give a bond to the boulevard district for the faithful performance of his contract, with sureties satisfactory to said commission in an amount equal to at least fifty per cent of the amount of the contract price; provided, however, that the commission may make contracts, without advertisement, for any construction work on said boulevard the cost of which does not exceed one thousand dollars; and provided, further, that the commission may reject any or all bids and may thereupon readvertise for bids for doing any part or the whole of said work; or may do said work without letting any contract therefor when the amount of the work is less than one thousand dollars. Said commission may hire all necessary engineers, inspectors and superintendents to supervise the performance of contracts entered into by said commission, or to have charge of the doing of all work done without contract.

Any order of said commission directing the advertisement or readvertisement for bids, as hereinabove provided, may alter the said plan for such boulevard or boulevards including the route of any portion or portions of any such boulevard or boulevards; provided, that no such change shall involve any material increase in the cost of construction of the portion or portions so altered or the cost of acquiring the rights of way therefor and any and all boulevard commissions are hereby given power and authority to make any such change or changes in any such plan or plans.

The commission may do any or all work of maintenance or repair upon such boulevard, or boulevards, either with or without contract therefor, and with or without advertising for bids for contracts for such work of maintenance and repair, at its discretion; provided, however, that if the cost of any such work of maintenance or repair shall exceed the sum of one thousand dollars, then such work shall be done under contract pursuant to bids for such work after advertising in the same manner herein provided for advertising for bids and letting contracts for construction work. [New section added May 29, 1917; Stats. 1917, p. 1310.]

§ 21. **Application to state department of engineering for exercise of powers.** Anything in this act to the contrary notwithstanding, the boulevard commission shall have and is hereby given power and authority, at its option, to make application to the department of engineering of the state of California, or to the proper subdivision of said department, for the exercise by said department, or proper subdivision thereof, as the case may be, of any or all powers, duties or authority which said department or proper subdivision thereof, as the case may be, may now, or at any time hereafter, exercise or enjoy with respect to the ownership construction, maintenance or improvement of any boulevard or boulevards or proposed boulevard or boulevards, constructed or to be constructed pursuant to the provisions of this act, including the preparation of plans, specifications and estimates for, and the handling and expenditure of boulevard district moneys for, such construction, maintenance or improvement; any such application to said department of engineering, or subdivision thereof, shall be made in accordance with the provisions of the law as it now is or may hereafter exist defining the powers, duties or privileges of such department of engineering or subdivision thereof in relation to such matters, and upon the granting of any such application by said department of engineering or subdivision thereof, the boulevard commission shall have full power to carry out the terms of such application on its part. [New section added May 29, 1917; Stats. 1917, p. 1311.]

22. **Transfer boulevard to county.** Anything in this act to the contrary, notwithstanding, the boulevard commission shall have, and it is hereby given, full power and authority at its option to transfer and convey all the right, title and interest of the boulevard district in and to any boulevard or boulevards in such district after complete construction thereof, to the county within which such district is situated, provided that the board of supervisors of such county consent to and accept such transfer and conveyance and agree thereafter to maintain such boulevard or boulevards as boulevards and as part of the county highway system of such county, any and all such boulevards so transferred and conveyed to be thereafter held and owned by such county as county boulevards without any further liability or responsibility therefor on the part of such district. But no such transfer or conveyance shall affect any bond or bonds theretofore issued by such district or the liability of such district thereunder. [New section added May 29, 1917; Stats. 1917, p. 1312.]

§ 23. **Dissolution of district.** The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof at an election called by the boulevard commission upon the question of dissolution. Whenever it shall deem it advisable, the boulevard commission shall, by resolution, order that an election be held in the said district upon the question of dissolution of the district. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, any property which may have been acquired by such boulevard district shall vest in the county, except that

any such property lying within the boundaries of an incorporated city shall vest in such city; provided, however, that if at the time of the election to dissolve such district there be any outstanding bonded indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such outstanding indebtedness of such district; and from the time such district is thus dissolved until such bonded indebtedness with interest thereon is fully paid, satisfied and discharged, the board of supervisors of the county shall constitute ex officio the boulevard commission of such district. And it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness, and the interest thereon, as herein provided. [New section added May 29, 1917; Stats. 1917, p. 1312.]

§ 24. [There is no section of this number.]

§ 25. **Established districts validated.** Any and all boulevard districts heretofore established by order entered by any county board of supervisors under this act, and all amendments thereof or of any section or sections thereof, are hereby declared to be legally organized and existing and all the proceedings on the organization and formation of any and all such boulevard districts are hereby approved and in all respects declared valid, and all boulevard districts are subject to the provisions of this act so far as applicable. [New section added May 29, 1917; Stats. 1917, p. 1313.]

§ 26. **Proceeding to determine legality of district.** Any district formed hereunder, in order to determine the legality of its existence, may institute a proceeding therefor in the superior court of the county in which it was organized by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal boulevard district formed under the provisions of this act. The summons in such proceeding shall be addressed generally to all persons interested in said district or in any of the lands therein contained, and shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in the said county. Within thirty days after the last publication thereof any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district. If no answer shall be filed within said time the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

ACT 1457s.

An act declaring and establishing a state highway from the city of San Bernardino, by way of Arrowhead avenue, Waterman canyon,

the "Crest drive" and Mill creek to the city of Redlands. [Approved May 29, 1917. Stats. 1917, p. 1314. In effect July 28, 1917.]

ACT 1457t.

An act providing for the taking over by the state of California of a certain road in Boulder Creek township, county of Santa Cruz, and for the maintenance and improvement of the same as a state road under the supervision of the state department of engineering.

[Approved May 29, 1917. Stats. 1917, p. 1325. In effect July 28, 1917.]

§ 1. **Road conveyed to state.** The board of supervisors of the county of Santa Cruz, state of California, is hereby authorized to transfer and convey unto the state of California, that certain road situate in Boulder Creek township, county of Santa Cruz, state of California, and described as follows, to wit: Beginning at the intersection of Main and Lorenzo streets in the town of Boulder Creek, thence running in a northwesterly direction over the present traveled road to the Sequoia schoolhouse; thence running over the road known as the Boulder Creek and state park road to the easterly boundary of the California Redwood Park; length of road, nine and one-half miles; and to execute on the part of said county of Santa Cruz, a deed to the state of California to carry into effect such transfer and conveyance.

The state department of engineering, through the state engineer, is hereby authorized and directed to accept said deed and said road on behalf of the state of California.

§ 2. **Improvement of department of engineering.** Upon the acceptance of such deed, the said department of engineering shall improve and maintain said road as a state road and any expense incurred in such work after the date of the acceptance of said deed, shall be a proper charge against any money in the state treasury available for the improvement and maintenance of state roads.

ACT 1457u.

An act extending the Mono Lake basin state road easterly to a junction with the county road from Mono Lake postoffice to Mono Mills.

[Approved May 29, 1917. Stats. 1917, p. 1326. In effect July 28, 1917.]

§ 1. **Extension of Mono Lake basin state road.** The state department of engineering is hereby authorized and directed to extend the Mono Lake basin state road easterly to a junction with the county road from Mono Lake postoffice to Mono Mills, which said extension is hereby declared and established as a portion of the Mono Lake basin state road.

ACT 1457v.

An act making an appropriation for the survey, location and construction of a highway between Susanville in Lassen county and a point on the line between California and Nevada, approximately two

miles east of Constantia in said county. [Approved June 1, 1917. Stats. 1917, p. 1611.]

The act appropriated $60,000 for the purpose indicated.

ACT 1458f.

An act providing for the creation, organization and government of joint highway districts composed of two or more counties of the state of California.

[Approved April 5, 1917. Stats. 1917, p. 46. In effect July 27, 1917.]

§ 1. **Joint highway district may be created.** A joint highway district, to be composed of two or more counties may be created, organized and governed for the purpose of constructing public highways therein as in this act provided. The word "county" as used in this act shall include any "city and county," but such city and county is herein regarded solely as a political subdivision of the state, and not as a municipality.

§ 2. **Resolution initiating proceedings.** The board of supervisors of any county may initiate proceedings for the creation of a joint highway district to be composed of two or more counties of the state by the adoption of a resolution reciting:

(a) That the public interest requires the construction of a public highway, stating generally the location and course thereof, and naming the counties in or through which such highway will pass.

(b) The names of the counties interested in and which will be benefitted by such highway construction.

(c) That it is proposed to create a joint highway district composed of the counties so named.

When adopted, certified copies of the same shall be transmitted to the advisory board of the state engineering department of the state of California, and to the clerks of the boards of supervisors of the counties named in the resolution.

§ 3. **Notice and hearing.** Immediately upon receipt of a copy of the resolution adopted as aforesaid, the said advisory board, either at a regular or special meeting, shall fix a time and place in the county adopting the resolution at which the matter of the creation of a joint highway district will be heard and determined. Notice of such hearing shall be published five days in one daily newspaper published in each of the counties named in said resolution, or two times in a newspaper published less than six days a week or if no newspaper be published in any county then such notice shall be posted in three public places in such county for a period of ten days. The time fixed for such hearing shall be not less than thirty nor more than forty days from the date of meeting at which the said advisory board caused such notice to be given.

§ 4. **Proof of publication.** Proof of the publication shall be made by the affidavit of the publisher, manager or principal clerk of the newspaper making such publication, or person posting the notice, and such notice, the publication, or posting thereof and proof thereof shall be

sufficient to vest said advisory board of the state engineering department with jurisdiction and power to hear, determine and order the creation of the proposed joint highway district. A copy of such notice shall be mailed to the clerk of the board of supervisors of each of the counties named in the initiatory resolution.

§ 5. **Board of directors named.** Upon the receipt of such notice it shall be the duty of each of the boards of supervisors to name and appoint either one of its members or some other suitable person and each of the persons so appointed shall constitute a member of the board of directors of the joint highway district when created. It shall be the duty of each of the persons so appointed to attend the hearing fixed by the said advisory board. The said directors so appointed, may meet from time to time in advance of the time fixed for said hearing and may make and enter into an agreement limiting the amount to be assessed upon each of the counties to comprise the district when formed, and such limitation so agreed upon shall not thereafter be changed except by the unanimous vote of all the directors.

§ 6. **Objections to creating district.** At the time and place fixed for said hearing any person may appear and offer objections to the creation of the joint highway district, and the said advisory board shall hear such objections and may continue such hearing from time to time and all parties shall be deemed to have notice of any such continuance.

§ 7. **Order creating district.** At the conclusion of such hearing the said advisory board shall determine all matters relating to the creation of such joint highway district and may sustain or overrule any objection offered. The objections offered need not be specifically set forth, but may be sustained or overruled in general terms. An objection made by any person appointed a member of the proposed board of directors shall prevent the creation of the district. If no objections are made or if all objections shall be overruled, then the said advisory board shall make and enter in its minutes an order creating such joint highway district. The order shall contain the names of the several counties composing the district and the names of the persons constituting its board of directors. Districts shall be numbered in the order of their creation. A certified copy of such order shall be filed with the secretary of state and transmitted to the clerks of the several boards of supervisors of the counties composing the district. Upon the filing of the said order with the secretary of state said joint highway district shall be deemed created and organized, and shall exercise all of the powers granted by this act, and shall be a public corporation under the designation of "joint highway district No. —— of the state of California."

§ 8. **Purpose of districts.** The purpose for which the joint districts may be created is to provide the necessary authority and means to construct and maintain the highway described in the initiatory resolution in and through the several counties constituting the district; such highway to be continuous and afford adequate intercommunication for vehicular traffic. This act shall be so construed as to facilitate the accomplishment of this purpose.

§ 9. **Board of directors to manage district.** Said joint highway districts shall be managed, and the powers herein conferred thereon, shall be exercised by a board of directors. Said directors shall be chosen and appointed as follows: One by the board of supervisors of each of the counties composing said district either from its members or other suitable person. Said directors shall serve during the pleasure of the appointing power. They shall receive no compensation for their services, but may be allowed actual expenses incurred by them in connection with the discharge of their duties under this act.

§ 10. **Place of business. Secretary. President. Vice-president.** Said board shall fix a place within the district for the transaction of its business, but may hold its meetings from time to time in any place in said district that will best serve the convenience of the public A majority of the members shall be necessary to constitute a quorum for the transaction of business It may make all rules necessary to the orderly transaction of such business. It shall appoint a secretary; may employ such additional clerical, or legal or engineering service as may be required from time to time and fix the compensation to be paid therefor. Said board shall organize within thirty days from the date of the creation of the district and the time and place of meeting for purposes of organization shall be fixed by the director chosen by the supervisors of the county adopting the initiatory resolution. It shall choose one of its members as president of the board, who shall preside at its meetings. A vice-president shall be appointed who shall act in the absence or disability of the president. The president shall perform such duties as the board may designate.

§ 11. **Powers.** Said joint highway district through its board of directors shall have power—

To lay out, construct and maintain a highway as specified in section three of this act.

To accept in the name of the district all gifts, donations or contributions from any source whatsoever made to further the purpose of this act, and the counties composing the district may convey such public highways as may be utilized as a part of the highway herein authorized to be constructed.

To acquire necessary lands, or rights of way for purposes of such highway.

To exercise the right of eminent domain necessary to acquire lands or rights of way for highway purposes.

To acquire and use such personal property as may be necessary in the exercise of the powers herein granted.

To employ such labor and service as may be necessary.

To arrange for the safekeeping of all funds belonging to the district and to this end may appoint a treasurer or depositary, and exact from him such bonds or other security as may be proper.

To sue and be sued.

To adopt a seal.

§ 12. **Contingent fund.** For the purpose of providing a contingent fund for the district and to meet the incidental expenses thereof, the

boards of supervisors of the several counties comprising the district are hereby authorized and directed to appropriate from any money received by such counties under the provisions of the "vehicle act," in effect January 1, 1916, or any act in continuance thereof or supplemental thereto, such percentage thereof as may be determined by the board of directors of the joint district by a resolution adopted by a vote of all of its members. Such sums so appropriated shall be paid by a warrant drawn in the name of the joint highway district, and shall be deposited with the treasurer or depositary of the district.

§ 13. **Survey of highway. Report by engineer.** As soon as practicable after the organization of the board of directors of the district, said board shall cause to be surveyed and located the highway authorized by this act to be constructed or such portion thereof as may be deemed expedient, and for that purpose may employ an engineer and necessary assistants. Upon the completion of such survey the engineer shall file a report thereof with the board of directors together with all necessary maps, drawings and plans of construction, other than detailed drawings and specifications, also an estimate covering the cost of the completion of said highway, including rights of way therefor and interest to be paid during construction.

§ 14. **Hearing on report. Assessment covering estimated cost.** Upon filing said report the board of directors shall fix a time and place for considering the same. The hearing thereon may be continued from time to time or from place to place in the different counties, if so desired.

Upon such hearing being had said board of directors shall make an assessment covering such estimated cost, upon the state of California, and the several counties comprising the district according to the benefits that may result from the construction of such highway to said state and counties and the people residing therein, or may assess not to exceed one-fourth of such estimated cost upon such land in private ownership as may be benefited thereby in the manner provided by this act.

§ 15. **Order determining benefits.** Upon the conclusion of such hearing such board of directors shall make an order determining the amount of the benefits to accrue to the state and to each county comprising the district and to the people residing therein and shall make an assessment against the state and said counties in proportion to the benefits so to accrue, in a sum equal to said estimated cost, or as much thereof as may be necessary, but said estimated cost if deemed excessive may be reduced to such an amount as the board of directors shall seem proper. The amount of such assessment shall be certified to and transmitted to the state board of control and to the boards of supervisors of the counties constituting the district.

§ 16. **Appeal to advisory board.** In case the state board of control or the board of supervisors deem that the assessment imposed upon the state or such county be excessive or that it has been inequitably treated, the state board of control or such board of supervisors, within forty days from the receipt of the certificate referred to in the preceding section,

may appeal from the order of the board of directors of the district to the advisory board of the state engineering department. Such appeal shall be in writing and set forth the nature of the objection and a copy thereof shall be filed with the board of directors of the district, with the advisory board of the state engineering department and with the boards of supervisors of the counties constituting the district.

§ 17. **Hearing. Judgment.** Upon filing such appeal, the said advisory board shall have jurisdiction to hear and determine the same. It may take testimony and hear all parties interested It may change or modify any of the plans of the engineer, and may reduce the estimate of cost or change or modify any assessment or make a new assessment. Its judgment shall be final and conclusive, and a copy thereof shall be filed with the state board of control and with the boards of supervisors of the counties composing the district.

§ 18. **Assessment charge on state and counties. Installments. Time for payment of first installment.** The amount of the assessment imposed by the board of directors of the district, or by the said advisory board, shall be a charge, respectively, upon the state and the counties composing the district to the amount determined as herein provided, and shall be payable in five annual installments; provided, that should any installment exceed a sum equal to that which could be raised by a tax of five cents upon each one hundred dollars of assessed valuation as the same appears upon the assessment-roll of a county, then in the case of such county the number of annual installments may be increased to such a number that the amount of each installment will be less than that which would result from the levy of such tax. The first installment shall be payable on or before the first day of January following the filing of the assessment with the state board of control and boards of supervisors; provided, said assessment shall have been so filed prior to the first day of September preceding; otherwise it shall be payable on the first day of the second January succeeding such filing. The remaining installments shall be payable on the same day in each succeeding year.

§ 19. **Payment of installments.** On or before the time fixed by law for levying taxes for county purposes, the boards of supervisors of each county composing the district shall make provision for the payment of the amount of the installment of the assessment, either by the payment of the same from the moneys received from the state as herein stated or from a tax levied for that purpose, which tax shall be in addition to all taxes levied for county purposes. The amount assessed against the state in the discretion of the state board of control, may be paid in one installment and from any fund now available, or which may hereafter be made available for the purpose, or out of special appropriations for the purpose made by the legislature. Moneys shall be paid by the state treasurer upon warrants duly drawn by the controller of the state, upon demands made by the state engineering department and audited by the state board of control.

§ 20. **"Construction fund."** All moneys received by the joint highway district, unless otherwise provided herein, shall be kept in a fund

to be named "construction fund" and shall be paid out upon the order of the board of directors only for the construction of the highway herein provided.

§ 21. **"Revenue bonds." Maturity. Board of directors determine form, etc. Interest rate. Purchase by state board of control.** At any time after the assessment, either against the state, the several counties or the land within an assessment district has been made, the board of directors of the district may anticipate the payment thereof and may issue "revenue bonds" against the fund into which shall be paid all sums paid on account of the assessments imposed. The maturity of any bonds issued shall be subsequent to the date upon which any installment of assessment is due and the amount to become due shall not exceed the amount of such installment of assessment available to pay the same. The intent of the foregoing provision is that there shall be available for the payment of the principal and interest of all bonds issued a sum sufficient to pay the same at the time such interest and principal become due, and it shall be the duty of the board of directors to make provision for the payment of all bonds issued and interest thereon prior to their sale and delivery.

The bonds shall be issued at such times and in such amounts as may be required to meet the payment of the demands of the district, as may be determined by the board of directors. The form, denomination, rate of interest, time, place and manner of payment and all matters relating to such issuance shall be determined by the board of directors of the district; provided, that the rate of interest shall not exceed five per centum per annum.

The bonds so issued shall be sold in such amounts as the board of directors may determine. The state board of control is hereby authorized to purchase such bonds and pay for them out of any surplus money in the state treasury which, in its judgment, shall not be required for governmental purposes prior to the maturity of such bonds. The boards of supervisors of the several counties shall likewise have authority to purchase such bonds with any surplus funds under their control.

§ 22. **Highway assessment district.** Whenever it shall appear to the satisfaction of the board of directors that any land under private ownership will be benefited by the construction of the highway herein provided for, said board of directors, after the receipt of the report and estimates of costs herein required to be made and filed, may adopt a resolution of intention substantially in the following form:

RESOLUTION OF INTENTION.

Whereas, it appears to the satisfaction of the board of directors of joint highway district number —— of the state of California, that land under private ownership will be benefited by the construction of a highway provided for in an act entitled: "An act providing for the creation, organization and government of joint highway districts composed of two or more counties of the state of California," therefore be it

Resolved, That it is the intention of the board of directors of said joint highway district to create a highway assessment district to com-

prise all the land under private ownership within the following boundaries to wit: (Here set forth the boundaries of the proposed district.)

Further resolved, That it is the intention to assess the sum of $——, being a —— part of the estimated cost of said highway construction as appears upon the report of the district engineer filed in the office of the board of directors of said district, upon the land within the boundaries of said proposed district as herein described in the manner provided in said act.

Further resolved, That —— the —— day of —— 19—, at the hour of —— at (meeting place of the board of directors) is hereby fixed as the time and place for hearing all objections that may be made to the creation of said district or the amount of benefits to be assessed as aforesaid; also to hear and determine all claims for damages that may result from the construction of the highway aforesaid.

Reference to the aforesaid report of the district engineer for further particulars is here made.

Adopted by the board of directors of joint highway district number —— of the state of California, this —— day of ——, 19—.

—— ——,
Directors.

Attest: —— ——,
Secretary.

Time for hearing. The time of hearing shall be not less than thirty nor more than forty days from the date of the adoption of the above resolution.

§ 23. Notice of resolution. Proof of publication. Posting of notices. The board of directors shall cause a notice of the passage of such resolution including a copy of the same to be published five times in a daily newspaper of general circulation published in each of the counties composing the district or two times in a newspaper published less than six days a week, or if no newspaper be published in any county then such notice shall be posted in three public places in such county for a period of ten days. The first publication in each of said counties shall be within five days after the adoption of said resolution of intention. Such notice shall be headed by the words "notice of intention to create highway assessment district." Proof of the publication of such notice shall be made by affidavit filed in the office of the secretary of the board of directors and such publication and proof shall be held sufficient to vest jurisdiction in the board of directors to hear and determine all matters authorized by this act to be so heard at the time and place of hearing fixed by the said resolution of intention.

The board of directors shall also cause to be conspicuously posted within fifty feet of all points where the highway proposed to be constructed shall intersect existing public highways two copies of the notice herein required to be published. Said notice shall be headed as herein specified and the words of said heading shall be in type at least two inches in height and the body of said notice shall be set in what is known as twelve-point or pica type. Said notices shall be posted within ten days from the date of the adoption of the resolution of intention.

§ 24. **District engineer to prepare map.** The district engineer shall be directed to prepare a map showing the exterior boundaries of the proposed district, the line of the proposed highway, intersecting highways, boundary lines of the counties, the separate parcels of land within the district and names of the owners thereof as nearly as the same may be ascertained from the records of the assessors' office in the several counties. Said map shall be completed before the date set for the hearing.

§ 25. **Objections.** Any person who may be affected by the creation of the proposed assessment district may make objection thereto. Objections shall be in writing signed by the objector or his agent and filed prior to the day fixed for the hearing. Objections may be made to the boundaries of the district or to the amount of the assessment proposed to be imposed. Claims for damages to result from the construction of the highway or the grade thereof as delineated upon the map or profile drawings of the district made by district engineer shall also be presented prior to the day of hearing and a failure to present such claims shall be deemed to be an express waiver thereof.

§ 26. **Hearing of objections.** At the time fixed in the resolution of intention for hearing objections, or at such time as such hearing may be continued, and all parties shall be deemed to have notice of such continuance, the board of directors shall hear and determine all objections that may be made and it shall be competent for said board to hear and determine any or all objections of every kind or nature even though such objections shall not be expressly authorized by this act, and also may pass upon, compromise or determine any claim for damages presented as herein provided.

§ 27. **Changing boundaries, etc. Claims for damages. Order by board of directors.** At the conclusion of the hearing the board of directors may change the boundaries of the proposed district, but may not include any territory outside thereof, may reduce the total amount of the assessment proposed to be imposed, change or modify any grades of a proposed highway and may sustain or overrule any other objections or generally overrule all objections that may have been made. It may also reject or approve in whole or in part any claim for damages. The total amount of all claims for damages that may be allowed shall be added to the estimate of the cost of the proposed highway and one-fourth of such amount of claims may be added to the amount of assessment proposed to be imposed unless such estimate shall already have provided for such damages.

All matters pertaining to the hearing having been heard and determined, the board of directors shall cause an order to be entered in its minutes ordering the construction of the proposed highway, creating a highway assessment district for the purposes of this act and describing the boundaries of the highway assessment district in accordance with this determination, declare the amount of the assessment to be imposed and assessing the same upon the land within the district, which shall be deemed to be the benefits thereto accruing from such proposed highway construction, and the same to be distributed to and imposed upon the several parcels of land within the district and to be paid as in this act

provided, and fix the number of annual installments in which such assessment may be paid. All objections not specifically set forth in said order shall be deemed to have been disallowed and overruled. The order shall also approve the map of the district made as herein provided.

§ 28. **Order sent to assessors and recorders.** Copies of said order and the map so approved shall be forthwith transmitted to the assessor and recorder of the several counties comprising the joint highway district. The recorder shall record said order and map as provided by law without charge therefor. The assessor shall preserve said map and in making any assessment-roll shall cause all parcels of land within the assessment district to be separately valued so that the value of all the land therein shall be definitely ascertained.

§ 29. **Statement of total assessed value.** On or before the fifteenth day of August in each year the auditor of each of the counties composing the district shall certify and transmit to the secretary of the joint highway district a statement showing the total assessed value of the land within his county included in the assessment district created as herein provided.

§ 30. **Secretary to determine amount of installment.** Immediately upon receipt of the statements required by the preceding section, the secretary of said joint highway district shall ascertain the amount of the installment of the assessment due and to be paid within the year thereafter. The sum so ascertained shall be the amount to be raised by taxation upon all the property within the assessment district. He shall apportion the said amount to the several counties composing the district according to the assessed value of the land therein as certified and shall transmit to the clerk of the board of supervisors of each of said counties a statement showing the total assessed value of the land within these counties included in the assessment district and the amount of money required to be raised by a tax imposed thereon.

§ 31. **Levy of special tax in district.** At the time and in the manner provided by law for the levying of taxes by board of supervisors, the board of supervisors in each of the counties composing the joint highway district shall levy a special tax upon all the land within the highway assessment district and within the county, sufficient to raise the sum of money required by this act and as certified by the secretary of the joint highway district.

§ 32. **Collected at time of county tax.** The tax so levied shall be computed and collected in the time and manner required by law for the computation and collection of taxes for county purposes and the land subject to such tax shall be subject to the same penalties for delinquencies, and the same provisions of law relating to the sale and redemption of land for nonpayment of county taxes, shall apply to the tax herein authorized.

§ 33. **Moneys paid to treasurer.** All money collected as the proceeds of a tax levied as herein provided shall be paid by the tax collector to

the treasurer of the joint highway district and placed to the credit of the funds of the district as herein provided.

§ 34. **Additional reports.** It is hereby expressly provided that the entire highway originally described need not be provided for in the report of the engineer made as provided in section thirteen of this act. Additional reports may be made from time to time as the same shall be deemed expedient and provide for the construction of other sections of such highway. The cost of such additional portions shall be provided for in the same manner as herein provided for in the case of the first report and additional assessments may be made in like manner. Additional assessments may be imposed in case the cost of construction exceeds the estimate made or in case any assessment shall be held invalid for any reason.

§ 35. **Contract let to lowest bidder. Construction by board of directors. Eight-hour day.** The work of construction shall be done by contract let to the lowest responsible bidder after advertisement for bids therefor shall have been made by publication in a newspaper of general circulation published within the district for a period of ten days prior to the receipt of such bids. Bonds for the faithful performance of the contract and for the payment of claims for labor and material shall be required of the successful bidder. However, if it should appear to the satisfaction of the board of directors that the bids were excessive or that collusion existed among bidders so as to prevent proper competition then the board of directors are authorized to purchase the necessary material, machinery and equipment and employ labor to perform the work of construction. The board of directors may acquire rock quarries or deposits of road material or if it is to the advantage of the district may purchase material and furnish the same to contractors. A maximum of eight hours shall constitute a day's labor and three dollars shall be the minimum charge paid for such day's labor performed upon the work of construction.

§ 36. **Advisory board to control expenditure of state funds.** In case it shall be determined that any sum of money authorized to be expended from the state treasury shall be expended as required by section twenty-two of article four of the constitution, then the advisory board of the state engineering department shall have the exclusive management and control of such expenditure, but such advisory board may, in its discretion, delegate its powers to the board of directors of the joint highway district and said joint highway district is hereby declared to be a state institution within the meaning of said constitution. The board of directors of the district may vest in the state engineering department authority to supervise the work of construction.

§ 37. **Necessary repairs.** Until the completion of said highway, all necessary repairs thereto shall be held to be a necessary part of the construction thereof and may be made either by contract or by the board of directors and the cost thereof paid from the construction fund.

§ 38. **Negotiations with United States.** In case the governmental authorities of the United States should desire to include such highway

in any scheme of national defense and use or assume the use of the same for military or other purposes, the board of directors of the joint highway district either directly or through the state engineering department may enter into negotiations respecting the same and enter into such agreements as may be mutually satisfactory.

§ 39. **Regulations by board of directors.** The board of directors may make such regulations respecting the use of such highway as shall not conflict with general laws and may exclude from such highway such class of the vehicular traffic as may be dangerous to public safety or which may result in a permanent injury to the roadway. All laws regulating state highways and inflicting penalties for a violation thereof shall apply to the highways constructed under the provisions of this act.

§ 40. **Certificate of completion. Interest and rights of way conveyed.** Upon the completion of the highway or any section thereof, the fact of such completion shall be certified to the advisory board of the state engineering department and such advisory board shall cause inspection to be made of such highway. If such advisory board shall find that the same has been properly constructed and is in good repair throughout, it shall issue a certificate of completion. Thereupon said advisory board shall, after due hearing, apportion said highway to the several counties constituting the district, or may accept the whole or any portion thereof as a state highway. The decree of distribution shall be transmitted to the board of directors of the joint highway district. Thereupon the said board of directors shall convey to the several counties composing the district, or to the state as the case may be, all interest and rights of way that the district may have in and to the highway so constructed and accepted in accordance with the terms of said decree of distribution. The highway or portions conveyed shall become a part of the system of county roads, or state highway as the case may be, and shall be maintained by said counties from the general or district road funds or by the state as provided by law.

§ 41. **Employees discharged.** Upon the receipt of the decree of distribution of the entire highway all employees of the board of directors shall be forthwith discharged excepting the secretary who shall continue to perform the duties required of him by this act.

§ 42. **District dissolved, when.** When all the bonds that may have been issued in pursuance with the provisions of this act shall have been paid, all property of the district shall be converted into money and all such moneys shall be distributed to the counties composing the district in proportion to the amount contributed by them under the provisions of this act. Thereupon, all books, documents, maps and other records shall be deposited with the state engineering department and thereupon said point highway district shall be dissolved.

ACT 1465.

An act to provide for work upon public roads, streets, avenues, boulevards, lanes and alleys not within the territory of incorporated cities or towns; for the incidental establishment of grades thereof; for the

construction therein or thereon of sidewalks, sewers, manholes, bridges, cesspools, gutters, tunnels, curbing and crosswalks; for the issue of bonds representing the costs and expenses thereof; for a special fund derived in part from the county road fund and in part by special assessment upon a district, and for the establishment of such districts.

[Approved March 21, 1907. Stats. 1907, p. 806.]

Amended 1911, p. 506; 1915, p. 1394; 1917, p. 1369.

The amendment of 1917 follows:

§ 1. Powers of boards of supervisors to do road work. Prohibited work. Power is hereby vested in the board of supervisors of every county in this state, by and under the procedure prescribed in this act, to grade or regrade to the official grade, plank or replank, pave or repave, macadamize or remacadamize, gravel or regravel, pile or repile, cap or recap, oil or reoil the whole or any portion of roads, streets, avenues, boulevards, lanes or alleys so far as not within the territory of any incorporated city or town, and so far as by dedication or otherwise, public and open to public use, and to do so for any length or width of the same, one of the same or any number of the same in combination, and to construct therein or thereon sidewalks, sewers, manholes, culverts, bridges, cesspools, gutters, tunnels, curbing and crosswalks, and to do the aforesaid things singly or in any combination of the same, and the various items of the said work and constructions need not be conterminous; and to issue bonds representing the costs and expenses of any said work or constructions as in this act hereafter provided; and to constitute a fund for the payment of such bonds as in this act hereafter provided; and to constitute a special fund for the payment of such bonds as in this act hereafter provided; and to levy special assessment taxes upon a district as in this act hereafter provided; and to establish said district and determine its boundaries as in this act hereafter provided; and, as incidental to the exercise of the powers aforesaid, to establish official grades within said district and such districts; and to transfer from county road funds to such special funds as in this act hereafter provided; and to purchase material and funish the same to be used in the doing of any of the works above named.

But said board of supervisors are hereby prohibited from doing, under the provisions of this act, any work, except sewer or drain work, within the roadway of any railroad or within any area which by law is required to be kept in order or repair by any person or company having railroad tracks thereon, and this prohibition shall have the effect of excepting the prohibited work from that described in any resolution of intention in any proceeding under this act, and of charging all persons with notice of such exception or exclusion, and such exception of said prohibited work need not be made in any such resolution of intention. [Amendment approved May 31, 1917; Stats. 1917, p. 1370.]

§ 3. Resolution of intention. Form of resolution. Before ordering any work to be done under this act, the board of supervisors shall pass a resolution of intention so to do. Such resolution may, in form, and shall, in substance, be (filling all blanks) as indicated following, to wit:

In the matter of road district improvement No. ——. Resolution of intention No. —— (the same number for both blanks.)

Resolved, That it is the intention of the board of supervisors of the county of ——, state of California, proceeding under and by virtue of the road district improvement act of 1907, and in the matter of road improvement district No. ——, on the —— day of ——, 19—, at the hour of — M. of that day or as soon thereafter as the matter can be heard, at the chambers of said board, to order work to be done, as follows: (Here insert a description of the work, stating the territorial extent thereof with all reasonable exactness, and in other particulars generally, yet so as to indicate fairly and approximately its probable cost), the said work to be done in accordance with the specifications therefor filed with the clerk of said board on the —— day of ——, 19—, except as the boundaries of the district and grades therein specified may be changed at the hearing of the matter hereinafter mentioned, which specifications are made part hereof, and to which all persons are referred for further particulars as to said work. For the costs and expenses of the work and the proceeding bonds will be issued to the amount of the same, bearing interest at the rate of —— per cent per annum, payable semi-annually, and one —— part of the principal annually, all in gold coin and the aggregate principal of said bonds shall be paid and discharged within "——" years from the issue thereof.

A special fund for the payment of said bonds is to be constituted by the levy of special assessment taxes upon all land within a district to be known as "road improvement district No. —— of the county of——," (and it may be added, "and partly by transfer of moneys from county road funds").

Such district (as proposed) being all that territory in the county of ——, state of California, within exterior boundaries as follows, to wit: —— (the blank to be filled with a careful statement of the exterior boundaries of the district).

Notice is hereby given that at the time specified hereinbefore for ordering the work, the matter of said road district improvement No. —— will come up for hearing, and all objections, which are, under the provisions of said road district improvement act of 1907, entitled to be heard or determined, will then be heard and determined, and the boundaries of said district and grades therein be finally determined and established.

The —— (here insert name and character of newspaper), is hereby designated as the newspaper for making publication of this resolution and for making all other publications in the proceeding.

——, a competent person, is hereby appointed superintendent of work with compensation at the rate of —— dollars per diem for days actually spent in the performance of duty under this appointment, (or, in lieu of the paragraph last preceding, it may appear, "——, a county officer is hereby appointed superintendent of work without compensation").

The foregoing resolution was, on the —— day of ——, 19—, passed by the board of supervisors of the county of ——, state of California.

Attest —— ——,
Clerk of the board of supervisors of said county of ——,
By —— ——,
Deputy Clerk.

The principal and interest of the bonds representing the cost of work done under the provisions of this act, shall be payable in gold coin of the United States of America, and the board of supervisors is authorized to determine the time, not to exceed twenty years, in which bonds issued to represent the cost of the work shall be paid, and to determine the rate, not to exceed seven per cent per annum, of the interest to be paid thereon, which interest shall be payable semi-annually, and to make such bonds in all respects as indicated by the form therefor, in this act hereafter provided. [Amendment approved May 31, 1917; Stats. 1917, p. 1370.]

§ 4. Publication of resolution. Copies posted. Power to proceed. Evidence of facts. Such resolution of intention shall be filed, and be published by at least two insertions in the newspaper therein designated, which shall be a newspaper published and circulated in the county, or, if there be no such newspaper, then in any newspaper designated by said board of supervisors in such resolution. Printed copies of such resolution, headed, "notice of road district improvement," such heading to be in letters not less than one inch in length, shall be, by the superintendent of work, or by some person appointed by him for the purpose, posted along the line of work described in said resolution, at not more than one hundred feet in distance apart, but not less than three in all.

Affidavits in proof of such publication and posting shall be filed with the clerk of the board of supervisors. When, before the day of the hearing specified in the resolution of intention, twenty days have elapsed since the posting and the first publication (they need not be simultaneous) of the resolution of intention, the board of supervisors shall have acquired power to proceed with such hearing and to take all other action in the proceeding as is in this act authorized.

The determination of the board of supervisors to proceed with such hearing, whether evidenced by an express declaration or by its proceedings to make other determinations at such hearing, shall be presumptive evidence, at least, of the existence of all of the facts upon which the power of the board to proceed depends, except such as are required to appear of the record in the proceeding, and except, also, in so far as such presumption is rebutted by the record in the proceeding.

§ 7. Publication of notice inviting bids. Consideration of bids. Notice of award to be published. Bonds accompanying bids. Successful bidder to pay for advertising. The notice inviting sealed proposals or bids shall be published by at least two insertions in the newspaper designated in the resolution of intention and, not necessarily simultaneously, a copy or copies of the same be posted and kept posted for five days, at or near the chamber door of the board of supervisors. All proposals or bids shall be accompanied by a check, payable to the order of the presiding officer of the board of supervisors, certified by a responsible bank for an amount not less than ten per cent of the aggregate of the proposal or bid, or by a bond for said amount running to the presiding officer of the board of supervisors, signed by the bidder,

with two sureties qualifying each in said amount over and above all statutory exemptions before an officer competent to administer an oath.

Said proposals or bids shall be delivered to the clerk of said board, and said board shall, in open session, examine and declare the same, but no proposal or bid shall be considered unless accompanied by said check or such bond in terms satisfactory to the board. The board may reject any and all proposals or bids should it deem this for the public good, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work to the lowest responsible bidder at the price named in his bid.

A notice of such award, attested by the clerk of the board of supervisors, shall be published two days and posted for five days in the same manner as hereinbefore provided with respect to the notice inviting proposals or bids.

The check or bonds accompanying such accepted proposals or bids shall be kept by the clerk of said board until the contract for doing said work, as hereinafter provided, has been entered into. If said bidder fails, neglects or refuses to enter into the contract for said work, as hereinafter provided, then the certified check accompanying his bid, and the amount therein mentioned, shall be declared forfeited to the county, and may be collected by it and paid into its road fund, and any bond forfeited may be prosecuted, and the amount thereof collected and paid into said fund.

Before being entitled to a contract the bidder to whom the award thereof has been made must advance and pay to the clerk of the board of supervisors, for payment by him the costs and expenses of publishing and posting resolutions, notices and orders required under this act to be made, which have been made, given, posted or published in the proceeding. [Amendment approved May 31, 1917; Stats. 1917, p. 1373.]

§ 9a. If contractor fails to carry out contract. Action to recover on bond. If the contractor shall fail to begin in good faith the work provided for in said contract within the time in said contract set forth, or shall fail thereafter to prosecute said work in a workmanlike and diligent manner, or shall fail in any other respect to carry out the terms of said contract, then the board of supervisors shall cause written notice to be served upon said contractor, specifying the particular in which he fails to fulfill the requirements of said contract and if for a period of three days thereafter said contractor shall fail to remedy the defects set forth in said notice, and to prosecute said work thereafter with diligence and in a workmanlike manner, then the board of supervisors shall either take over said contract and complete said work, or shall relet said contract, without the necessity of advertising for bids, and cause the work to be completed, and shall declare the bond given by said contractor forfeited and order suit brought thereon, and all moneys collected therefrom shall be paid into the general road fund of the county.

If the contractor shall fail to pay for any labor or material furnished for or in the doing of said work by any person, such person may within

ninety days after the making of the final order hereinafter referred to, file with the county treasurer a verified statement of such fact, and such person may thereafter within six months after the filing of such statement bring an action on said bond in his own name, or if he has assigned his claim, the action may be brought in the name of the assignee; provided, however, that the right of the county to recover on said bond shall be superior to the rights of any such person to recover thereon; provided, moreover, that if such statement shall be filed before the expiration of twenty days from the making of such final order, then the county treasurer shall be authorized to withhold from the contractor sufficient of the bonds, issued as hereafter provided, to satisfy said claim, and costs which can reasonably be anticipated. [New section added May 31, 1917; Stats. 1917, p. 1373.]

§ 13a. **Materials furnished to contractor.** The board of supervisors, by a four-fifths vote, may adopt a resolution setting forth that the improvement to be made is of more than local importance, and that all or a portion of the materials needed for the improvement are to be purchased and furnished to the contractor and paid for out of the general road fund or out of the fund of the road district in which the improvement lies, or if it lies in two or more road districts, out of the funds of such districts in a proportion to be determined by the board of supervisors, and may thereupon purchase and furnish to the contractor such materials, and pay for the same in the manner set forth in said resolution; provided, however, that no material shall be furnished the contractor unless the specifications contain a statement of the kind and amount of the material to be furnished, and only in the amount and of the kind set forth in said specifications. [New section added May 31, 1917; Stats. 1917, p. 1374.]

§ 14. **Engineer of work.** The board of supervisors is hereby vested with power as follows, to wit:

1. To appoint, at any stage of the proceeding before calling for proposals or bids, any competent engineer, to be designated "engineer of work," for the purpose of doing and furnishing all the civil engineering work or services, surveying and similar work and services necessary to the proper doing of the work. His compensation or at least the rate or some basis for computing the same shall be fixed and stated in the order of his appointment, which said order shall be entered in the minutes of the board; provided, any county officer may be appointed as such engineer without compensation.

2. **Superintendent of work.** To appoint, in and as a part of the resolution of intention, any competent person to be designated "superintendent of work," whose duty it shall be to perform the services for him in this act prescribed or indicated, and to have the general actual supervision of the work. His compensation shall be fixed at the time and in the resolution of his appointment at a per diem not to exceed five dollars for all time actually devoted to the work; provided, any county officer may be appointed as such superintendent without compensation.

3. **Specifications.** To designate any competent person for the purpose of preparing and furnishing the specifications required by section two of this act, and with such designation to fix his compensation, or some basis for computing the same, or to appoint any county officer of the county without compensation.

4. **Appointees. Not charge against county. Supervisors ineligible.** To appoint and designate other competent persons in the places respectively of the persons so originally appointed, with compensation, so far as practicable, proportionately the same as fixed for the original appointee, and to appoint such additional persons as may be needed to carry on said work; and to fix their compensation which shall be a charge against the district.

No part of such or any compensation for said officers or employees, or for services rendered by any of them shall be a charge against the county or any officer thereof; except that for furnishing specifications and posting the resolution of intention the county shall be liable in case the proceedings cease or are abandoned, before the award of the contract; provided, however, that whenever any county officer is appointed to any of the positions hereinabove mentioned without compensation, the actual and necessary expenses incurred under his supervision, including the compensation of other persons, made necessary by the duties of such positions shall be a charge against the county but shall be repaid to the county by the contractor as in the following section provided.

No member of the board of supervisors shall be eligible to appointment to any office, position or employment under this act, except as county officer without pay. [Amendment approved May 31, 1917; Stats. 1917, p. 1375.]

§ 15. **Costs paid by contractor.** All the costs and expenses of the proceeding, inclusive especially of the compensation of the person appointed to furnish the specifications, of the superintendent of work, of the engineer of work, of the cost of all publications under this act required to be made, shall be chargeable to and paid by the contractor, and they shall have been paid before delivery of the bonds shall be made by the county treasurer; provided, however, that if said costs and expenses are not paid within ten days after the notice given that said bonds, excepting such number thereof as may be withheld to satisfy claims filed as hereinabove provided are ready for delivery, a sufficient number of said bonds may be sold at not less than ninety-five per cent of their face value to fully satisfy said costs and expenses, any surplus over said costs and expenses obtained by such sale to be paid to said contractor; provided, further, that the county treasurer may make delivery of such bonds, if there be deposited with him, subject to the order of the board of supervisors, money to the amount of the costs and expenses chargeable to the contractor as the same is stated in the attested order of the board of supervisors, provided for in section twelve of this act. The contractor and all persons claiming under him any interest in said bonds, whether of ownership, lien or otherwise, shall be deemed to have notice of the contents of this section. [Amendment approved May 31, 1917; Stats. 1917, p. 1376.]

ACT 1466.

An act to allow unincorporated towns and villages to establish, equip and maintain systems of street lights on public highways; to provide for the formation, government and operation of highway lighting districts; the calling and holding of elections in such districts; the assessment, collection, custody and disbursement of taxes therein; and the creation of ex-officio boards of supervisors.

[Approved March 20, 1909. Stats. 1909, p. 551.]

Amended 1911, p. 439; 1913, p. 447; 1915, p. 943; 1917, p. 1521.

The amendment of 1917 follows:

§ 16. Disposition of funds. Remainder transferred to city treasurer. The revenue derived from said tax, together with all other moneys acquired in any manner whatsoever by the lighting district shall be paid into the county treasury to the credit of the lighting fund of the district wherein said tax was collected, subject only to the order of the board of supervisors of said district, and to be by them expended only for and on behalf of the district wherein such money was collected; provided, however, that any funds arising from assessments made under the provisions of this act, and remaining in said county treasury after the payment of all outstanding legal obligations incurred by the district, shall be ordered transferred, by the board of supervisors of the county in which such district is situated, to the city treasurer of the city, if any there be, that has been incorporated since the formation of said district, and which includes within its corporate limits such district or any considerable portion thereof. If such incorporation has not taken place, then said funds so remaining in said county treasury shall be transferred to a separate fund and, upon the order of the board of supervisors of the county, shall be repaid pro rata to the persons by whom the assessments were originally paid. [Amendment approved June 1, 1917; Stats. 1917, p. 1521.]

§ 18a. Annexation of territory. Petition. Notice. Hearing. Order granting petition. The boundaries of any such highway lighting district may be altered and outlying contiguous territory in the same county in which a lighting district is situated annexed thereto in the following manner: A petition signed by the owners representing at least one-fourth in number of the total owners of real property, and at least one-fourth of the assessed valuation, as shown by the last equalized assessment-book of the county in which such lighting district is situated, of the real property, in such contiguous territory proposed to be annexed, designating the boundaries of such contiguous territory proposed to be annexed and the number of owners of real property in such territory and the assessed valuation thereof, as shown by said last equalized assessment-book, and stating that such proposed territory is not within the limits of any other lighting district, and asking that such territory be annexed to said lighting district, shall be presented to the board of supervisors of the county in which said lighting district is situated.

At their first regular meeting after the presentation of said petition, said board of supervisors shall cause notice of said petition to be pub-

lished in a newspaper published and circulated in the county in which said lighting district is situated, if there be such a newspaper, otherwise by posting copies of said notice in three of the most conspicuous places in said territory proposed to be annexed, for three weeks prior to the date to be fixed by said board of supervisors for hearing said petition. Upon the date fixed for said hearing, or to which it may be continued, said board of supervisors shall take up and consider said petition, and any objections thereto which may be filed or to the inclusion of any property in said district.

Said board of supervisors shall have the power, by order entered on its minutes, to grant said petition either in whole or in part, and by order entered on its minutes to alter the boundaries of said lighting district, and annex thereto all, or such portion of said contiguous territory, described in said petition, as will be benefited by inclusion in said lighting district. No territory which will not be so benefited, or which is not contiguous to said lighting district, or which is not described in said petition shall be included in said district.

Such order shall be conclusive evidence of the validity of all prior proceedings leading to the annexation or recited in said order, and from and after the making of said order, such territory shall become and be a part of such lighting district and shall be taxed, together with the remainder of said district, for all taxes to be thereafter levied by said board of supervisors, for the maintenance of said lighting district. [New section added June 1, 1917; Stats. 1917, p. 1522.]

§ 18b. If district annexed to city. If part of district annexed. Upon the annexation of all or of any portion of the territory embraced in any such lighting district to an incorporated city or city and county, all funds paid into the county treasury to the credit of the lighting fund of such district, if the whole of such district shall be annexed, shall be turned over by the board of supervisors of such district to the treasurer of said incorporated city, or city and county, and administered by the legislative body of said incorporated city, or city and county; said legislative body shall have all of the powers and perform all of the duties granted to or imposed upon the board of supervisors of the county in which such district is located and of the board of supervisors of said district, and shall carry out the provisions of this act as to such district to the same purpose and extent as if originally constituted, under the provisions of this act, the governing body thereof. Upon the expenditure of the funds and the discharge of the obligations and liabilities of any such lighting district, the whole of which has been annexed to an incorporated city, or city and county, such district shall ipso facto be dissolved with the same force and effect as if dissolved under the provisions of section eighteen of this act. In the event of the annexation of a portion of the territory embraced in any such lighting district to an incorporated city, or city and county, such proportionate part of the funds collected for the benefit of such district and remaining unexpended as the area of the territory so annexed bears to the total area of said district, shall be paid over to the treasurer of such incorporated city, or city and county, in the manner hereinabove

provided, and administered by the legislative body of such city, or city and county, until the same are expended, for the benefit of the portion of such district so annexed. Upon the expenditure of such funds in the manner required in this act the territory of such district so annexed shall be deemed to be withdrawn from said lighting district and thereafter the remaining territory embraced in said district and not so annexed shall, upon a resolution adopted by the board of supervisors of the county in which such territory is located, be and become a lighting district within the meaning of this act and so remain until dissolved as provided in this act. [New section added June 1, 1917; Stats. 1917, p. 1523.]

ACT 1467a.

An act expressing assent of the state of California to the provisions of the act of congress approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes."

[Approved March 21, 1917. Stats. 1917, p. 20. In effect July 27, 1917.]

§ 1. Assent to act of congress approved July 11, 1916. The state of California hereby assents to the provisions of the act of congress approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes."

TITLE 230.

HISTORIC PROPERTY.

ACT 1468d.

An act to create a commission for the purpose of making a survey of local historical material in the state of California; defining the power and duties of said commission; and making an appropriation therefor.

[Approved June 12, 1915. Stats. 1915, p. 1528.]

Amended 1917; Stats. 1917, p. 572.

The amendment of 1915 follows:

§ 4. Purpose of commission. Models of mission buildings. Notice. The purpose of this commission shall be to make a survey of the material on local history within the state of California by investigating documents in local depositories and in the possession of private individuals and other sources of original information on the early history of the state of California and to compile, keep and publish a record of such sources of information; and to investigate and acquire information as to the physical characteristics of the several missions which were maintained in the state of California under the charge of the Franciscan fathers prior to the time of the secularization thereof, and to cause to be made a record thereof, and to be created models of the several mission buildings and outbuildings connected therewith, which shall be accurate representations of the mission buildings and outbuildings con-

nected with the same as they were at the time when the Franciscan fathers were in charge, and the same shall be known respectively as the California model of each particular mission in question, and the said commission shall cause to be prepared plans and specifications sufficient in detail to enable any of said buildings and outbuildings to be restored, and the commission shall have authority to pass upon and determine the relative accuracy of information to be obtained and to establish for the state the models and plans and specifications thereof; provided, however, that no model shall thus be established as the correct model of any mission unless the said commission shall first have published for a period of at least sixty days a notice to the public fixing a time and place at which any person interested in the said respective mission, or having information as to the condition of said mission buildings, or any part thereof, may present to the commission facts, papers, documents, records or other information substantiating the said person's ideas as to the condition of said mission buildings at the time in question, which notice must be published in one newspaper in the city of San Francisco, one newspaper in the city of Sacramento, one newspaper in the city of Los Angeles, and one newspaper in the county in which said mission building was situated.

TITLE 241.

HOTELS.

ACT 1530.

An act to regulate the building and occupancy of hotels and lodging-houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof. [Approved June 16, 1913. Stats. 1913, p. 1429.]

Repealed 1917; Stats. 1917, p. 1422. See next Act.

ACT 1530a.

An act to regulate the erection, construction, reconstruction, moving, alteration, maintenance, use and occupancy of hotels, and the maintenance, use and occupancy of the premises and land on which hotels are erected or located, in all parts of the state of California, including incorporated towns, incorporated cities, and incorporated cities and counties, and to provide penalties for the violation thereof; and repealing an act act entitled "An act to regulate the building and occupancy of hotels and lodging-houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof," approved June 16, 1913, Statutes of California of 1913, page 1429.

[Approved May 31, 1917. Stats. 1917, p. 1422. In effect September 1, 1917.]

§ 1. Title. This act shall be known as the "state hotel and lodging-house act," and its provisions shall apply to all parts of the state of California, including incorporated towns, incorporated cities, and incorporated cities and counties.

§ 2. Duty of building department. Duty of housing department. In case no such departments. Enforcement. Power of commission of immigration and housing. It shall be the duty of the "building department" of every incorporated town, incorporated city, and incorporated city and county, to enforce all the provisions of this act pertaining to the erection, construction, reconstruction, moving, conversion, alteration and arrangement of hotels and to issue the certificate of "final completion" hereinafter provided.

It shall be the duty of the "housing department" and if there is no housing department the health department of every incorporated town, incorporated city, and incorporated city and county to enforce all of the provisions of this act pertaining to the maintenance, sanitation, ventilation, use and occupancy of hotels after said hotels have been erected, constructed or altered, as the case may be, and the certificate of "final completion" has been issued by the building department and to issue the "permit of occupancy" as hereinafter provided.

In the event that there is no building department or no housing department or health department in an incorporated town, incorporated city or incorporated city and county, it shall be the duty of the officer or officers who are charged with the enforcement of ordinances and laws regulating the erection, construction or alteration of buildings, or the maintenance, sanitation, ventilation or occupancy of buildings, or of the police, fire or health regulations in said incorporated town, incorporated city or incorporated city and county to enforce all of the provisions of this act.

In every county it shall be the duty of the officer or officers who are charged with the enforcement of ordinances or laws regulating the erection, construction or alteration of buildings, or of the maintenance, sanitation, occupancy and ventilation of buildings, or of the police, fire or health regulations in said county, to enforce all of the provisions of this act outside of the limits of any incorporated town or incorporated city.

Every incorporated town, incorporated city, or incorporated city and county in the state of California shall have authority, and it is hereby empowered and given authority, to designate and charge by ordinance any other department or officer than the department or officers mentioned herein, with the enforcement of this act, or any portion thereof.

The commission of immigration and housing of California shall have, and it is hereby empowered and given authority to enforce the provisions of this act, which do not pertain to the actual erection, construction, reconstruction, moving, conversion, alteration and arrangement of hotels in all parts of the state of California, including all incorporated towns, incorporated cities, incorporated cities and counties, in the state of California, whenever said commission finds or discovers a violation or violations of the provisions of this act and notifies the local department or officer, or departments or officers who are charged with the enforcement of the provisions of this act, in writing, of such violation or violations, and the said local department or officer, or departments or officers, fail, neglect or refuse to enforce the provisions of the said act within thirty days thereafter; provided, however, that the said commission of im-

migration and housing of California shall enforce the provisions of this act only in the instances specified in said written notice.

§ 3. **Unlawful to construct hotel contrary to act.** It shall be unlawful for any person, firm or corporation, whether as owner, agent, contractor, builder, architect, engineer, superintendent, foreman, plumber, tenant, lessee, lessor, occupant, or in any other capacity whatsoever, to erect, construct, reconstruct, alter, build upon, move, convert, use, occupy or maintain, or to cause, permit or suffer to be erected, constructed, reconstructed, altered, built upon, moved, converted, used, occupied or maintained any hotel or any portion thereof contrary to the provisions of this act, or to commit or maintain or cause or permit to be committed or maintained any nuisance in or upon any hotel or any portion thereof, or any of the premises, yards or courts which are a part thereof, or which are required by the provisions of this act; or to do or cause to be done, or to use or cause to be used, any privy, sewer, cesspool, plumbing or house drainage affecting the sanitary condition of any hotel or any portion thereof, or of the premises thereof, contrary to any of the provisions of this act.

§ 4. **Alterations.** It shall be unlawful for any person to make any alterations or changes or reconstruction work of any kind whatsoever, to any hotel erected prior to the passage of this act, or to any hotel hereafter erected, or to increase the height, in any manner which would be inconsistent with any of the provisions of this act, or in violation of the said provisions of this act; or in any manner to diminish the size of the yards, courts or shafts or the size of windows or skylights, or to remove any stairway or fire-escape, or to obstruct the egress from such building or from the hallways or stairways, or to do anything that would affect the ventilation and sanitation of the building, contrary to any of the provisions of this act.

§ 5. **Building converted to use as hotel. Building moved. Building reconstructed.** A building not erected for, or which is not used as a hotel at the time of the passage of this act, if hereafter converted to or altered for such use, shall thereupon become subject to all of the provisions of this act affecting hotels hereafter erected.

A building used as a hotel at the time of the passage of this act, if moved, shall be made to conform to all of the provisions of this act affecting hotels hereafter erected, in so far as they pertain to the percentage of lot occupied and the size of outer courts, inner courts bounded by a lot line, and yards.

It shall be unlawful to reconstruct any hotel which is hereafter damaged by fire or the elements to an extent in excess of fifty-one per cent of its physical proportions, unless the said building is made to conform to all the provisions of this act affecting hotels hereafter erected.

§ 6. **Penalty for violation.** Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment, and in

addition to the penalty therefor, shall be liable for all costs, expense and disbursements paid or incurred by the department, by any of the officers thereof, or by any agent, employee or contractor of same, in the prosecution of such violation. The costs, expense and disbursements by this section provided shall be fixed by the court having jurisdiction of the matter.

Procedure. Except as herein otherwise specified, the procedure for the prevention of violations of this act, for the vacation of hotels or premises unlawfully occupied, or for the abatement of a nuisance in connection with a hotel, or the premises thereof, shall be as set forth in the charter and ordinances of the municipality in which the procedure is instituted.

§ 7. Permit to erect hotel. Application for permit. Affidavit. Permit issued. Revocation. Plans kept on premises. Permit for nominal alterations. Expiration of permit. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion or alteration of a hotel, or to move or to build upon a hotel, or to convert a building or any portion thereof into use as a hotel without first obtaining a permit in writing so to do from the department charged with the enforcement of this act. Any person, firm or corporation desiring such a permit shall file an application therefor with the department charged with the enforcement of this act. Said application shall give a detailed statement in writing, verified under oath by the person making the same, of the erection, construction, reconstruction, moving, conversion, or alteration, as the case may be, upon blanks or forms to be furnished by the said department. The said application must be accompanied with a full, true and complete set of the plans of the hotel, or alteration, or work proposed, as the case may be, together with a set of specifications describing the materials proposed to enter into the construction of the proposed work, also a plan of the lot on which such building is proposed to be erected, constructed, reconstructed, converted, altered or moved, as the case may be. Such statement shall give in full the name and address by street and number of the owner or owners, also the name and address of the architect and of the contractor, if there be such an architect or contractor; also shall give such other data and information as in the judgment of the department charged with the enforcement of this act is deemed necessary.

The affidavit to said application shall allege that the plans and specifications are true and contain a correct description of the proposed hotel, lot and proposed work. If any person other than the owner makes such affidavit, such person shall not be recognized except that he allege in his affidavit that he is authorized and empowered by the said owner to act for him and to sign the required affidavit. Said department charged with the enforcement of this act shall cause all such plans, specifications and statements to be examined, and if it appears that they conform to the provisions of this act, shall then issue a permit to the person submitting the same. Said department may, from time to time, approve changes in any plans, specifications or statements previously approved by it; provided, that all changes when so made shall be in conformity with the provisions of this act. Said department shall have the power to

revoke or cancel any permit or approval that it has previously issued in case of any refusal, failure or neglect of the person to whom such permit or approval has been issued to comply with any of the provisions of this act, or in case any false statement or misrepresentation is made in any of the said plans, specifications or statements submitted or filed for such permit or approval. The erection, construction, reconstruction, moving, alteration or conversion of any such hotel, as the case may be, shall be made in accordance with the plans, specifications and statements submitted or filed, and for which the permit is issued.

A true copy of the plans, specifications and other information submitted or filed, upon which a permit is issued, with the approval of the department with which they are filed, stamped or written thereon, shall be kept upon the premises of the hotel or work for which the said permit is issued, from the commencement of the said building or work to the final completion of same, and shall be subject to inspection at all times by proper authorities.

The department charged with the enforcement of this act may, at its discretion, issue a permit in case of nominal alterations or repairs, when application is made therefore, in writing, by the owner or his agent, when the making of said nominal alterations and repairs do not affect any structural feature or the sanitation or the ventilation of the hotel, without requiring the filing of plans or specifications.

The issuance or granting of a permit or approval by the department charged with the enforcement of this act under the authority of this section shall not be deemed or construed to be a permit or an approval of the violation of any of the provisions of this act.

Every permit or approval which is issued by the department charged with the enforcement of this act, but under which no work has been done within ninety days from the date of issuance, or where work has been suspended for a period of ninety days, shall expire by limitation and a new permit shall be obtained before the work may be done.

§ 8. "Certificate of final completion" and "permit of occupancy." Renewal of permit of occupancy. Certificate issued. Permit issued. Hotel occupied without certificate or permit deemed nuisance. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to occupy or to permit to be occupied, any hotel hereafter erected, constructed, reconstructed, altered, converted or moved, as the case may be, or any portion thereof, for human habitation until the issuance of a "certificate of final completion" and a "permit of occupancy" by the department or departments charged with the enforcement of this act.

It shall also be unlawful to occupy any existing hotel until a permit of occupancy has been issued by the department designated to issue such permit.

Every permit of occupancy shall be renewed each calendar year by the department designated to issue the said permit; provided, that no structural alteration, or changes have occurred since the issuance of the certificate of final completion; and provided, that all other provisions of this act have been complied with.

Any person desiring a certificate shall file a notice with the department charged with the enforcement of this act. Said department shall

cause an inspection to be made of the said hotel or portion thereof, or work described in the said notice, within ten days after written application therefor, and shall issue a "certificate of final completion" if it is found that all the provisions of this act, regulating the erection, construction, alteration or moving, as the case may be, have been complied with.

The department charged with the enforcement of this act and designated to issue the permit of occupancy, shall issue the said "permit of occupancy" upon application, in writing, therefor by the owner or his agent, and upon the filing by the owner or his agent of such statements or records required by the department, after the "certificate of final completion" has been issued; provided, that no violations have occurred since the issuance of the certificate of final completion, or, in the case of a hotel erected prior to the passage of this act, and for which no certificate of final completion has been issued, then after the said department has caused an inspection to have been made of the said hotel and has found that all of the provisions of this act applying to such hotel have been complied with.

All permits and certificates shall be made in duplicate and a copy shall remain on file in the department issuing them.

Any hotel hereafter erected, altered, converted or moved, which is occupied, or any portion thereof which is occupied for human habitation, prior to a "certificate of final completion" or a "permit of occupancy" being issued, shall be deemed a nuisance and the department or departments charged with the enforcement of this act may cause it to be vacated, until the said certificate of completion and permit of occupancy have been obtained in accordance with the provisions of this act.

§ 9. **Power to enter hotel.** The department or departments charged with the enforcement of this act in any incorporated town, incorporated city, and incorporated city and county, or county, and the authorized officers, agents or employees of such department or departments, may, whenever necessary, enter hotels or portions thereof, or the premises thereof, within the corporate limits of such towns, cities, cities and counties, or counties, for the purpose of inspecting such buildings, in order to secure compliance with the provisions of this act and to prevent violations thereof.

The members of the commission of immigration and housing of California and the agents, officers or employees of said commission may, whenever necessary, enter hotels or portions thereof, or the premises thereof, for the purpose of inspecting such buildings in order to secure compliance with the provisions of this act and to prevent violations thereof.

The owner or his authorized agent may, whenever necessary, enter hotels or portions thereof, or the premises thereof, owned by him, to carry out any instructions or to perform any work required to be done by the provisions of this act.

§ 10. **Definitions.** For the purpose of this act, certain words and phrases are defined as follows, unless it shall be apparent from their context that they have a different meaning:

Words used in the singular include the plural, and the plural, the singular.

Words used in the present tense include the future.

Words used in the masculine gender include the feminine, and the feminine, the masculine.

Words "building departments," "health department," "housing department," "department charged with the enforcement of this act," "fire commissioner," shall be construed as if followed by the words, "of the incorporated town, incorporated city, incorporated city and county, or county," as the case may be, in which the hotel is situated.

"Approved" means whatever material, appliance, appurtenance, or other matter meets the requirements and approval of the department charged with the enforcement of this act, or which is approved by local ordinance of the municipality in which the building is situated, or any appliance, appurtenance, or other matter which conforms to the requirements of, and bears the approval of the "national board of fire underwriters"; provided, however, that no such material, appliance, appurtenance or other matter shall be deemed "approved" for use where, or in such a manner as would be inconsistent with the intent, or specific provisions of this act.

"Basement" is any story or portion thereof partly below the level of the curb or the actual adjoining ground level, the ceiling of which in no part is less than seven feet above the curb level or actual adjoining ground levels. If the adjoining ground is excavated to or below the curb level, or to or below the adjoining natural ground level, such excavated space shall have not less than the minimum width and length required in this act for outer courts. Every basement is a story.

"Building" is a hotel.

"Building department" means the commissioner of buildings, superintendent of buildings, chief inspector of buildings, or any officer or department charged with the enforcement of ordinances and laws regulating the construction and alteration of buildings or structures.

"Cellar" is any story or portion thereof, the ceiling of which in any part is less than seven feet above the curb level and actual adjoining ground levels.

"Court" is an open, unoccupied space other than a yard on the lot on which is situated a hotel. A court, one entire side or end of which is bounded by a front yard, a rear yard or a side yard, or by the front of lot, or by a street or a public alley, is an "outer court." Every court which is not an "outer court" is an "inner court."

Every court shall be open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are windows from rooms abutting the said court, except that a cornice on the building may extend into an "outer court" two inches for each one foot in width of such court, and a cornice may extend into an "inner court" one inch for each one foot in width of such court.

"Curb level" is the curb level opposite the center of the "front of lot."

Wherever the word "department" is used it means the building department, the housing department, the health department or such other department or officer, or departments or officers, who are charged with the enforcement of the provisions of this act.

"Dormitory" is a room in which more than two persons are "guests" and are not living together, and shall, for the purpose of computing

the number of rooms, be deemed a separate guest room for each one hundred square feet of superficial floor area therein.

"Fireproof hotel" is a building wherein all the exterior and interior loads or strains are transmitted to the foundation by means of concrete, reinforced concrete, brick, stone or by means of a skeleton framework of steel or iron; the exterior walls, inner court walls and roof constructed of concrete, reinforced concrete, brick, stone or hollow terra cotta tile; where all the structural steel or iron is thoroughly fireproofed by concrete, cement plaster, tile, brick or sandstone, not less than two inches thick; where all the interior partitions are constructed of either hollow terra cotta tile blocks, gypsum blocks, brick, concrete, reinforced concrete, or of metal studs lathed with metal lath and plastered not less than three-quarters inch thick including the lath, or of metal studs lathed with approved plaster board and plastered not less than three-quarters inch thick including the plaster board, or constructed of wire glass not less than one-fourth inch thick, set in metal frames and sash, and all other materials used in the said building are of approved incombustible material except that the glass in windows, transoms, or doors may be of plain glass, and except that doors, frames, sash and the usuall trim of rooms, hallways, corridors, and passage-ways may be of wood, and except that wood floors may be placed on top of the floors constructed of incombustible materials, except in the public hallways.

"Guest" is any person hiring and occupying a room for sleeping purposes, and shall include both boarders and lodgers.

"Guest room" is a room which is occupied, or is intended, arranged or designed to be occupied for sleeping purposes by one or more guests, but shall not be deemed to include dormitories used for sleeping purposes.

"Hotel" is any house or building, or portion thereof, containing six or more guest rooms which are let or hired out to be occupied, or which are occupied by six or more guests, whether the compensation for hire be paid directly or indirectly in money, goods, wares, merchandise, labor or otherwise, and shall include Turkish baths, bachelor hotels, studio hotels, public and private clubs and any building of any nature whatsoever so designed or occupied, except hospitals where persons temporarily reside and where each such person receives regular bona fide medical attendance on the premises, and jails, detention buildings and similar buildings where human beings are housed and detained under restraint.

"Housing department" is any department or commission charged with the enforcement of ordinances or laws regulating the occupancy and maintenance of hotel, lodging-house or dwelling-house buildings; and where no such department is maintained, shall be deemed to be the health commissioner, the department of health, health officer, or similar department charged with the enforcement of laws and ordinances relating to the protection of the public health.

"Lot" is a parcel or area of land on which is situated a hotel, together with the land, yards, courts and unoccupied spaces for such a hotel as required by this act; all of which land shall be owned by or be under the absolute lawful control and in the lawful possession of the hotel.

A lot situated at the junction of two or more intersecting streets, with a boundary line thereof bordering on each of the two streets, is a "corner lot." All parts of the width of such corner lot which are distant

more than seventy-five feet from the junction point of the two or more intersecting streets, shall be deemed to be an "interior lot." The owner or his authorized agent may designate either street frontage as being the front of such corner lot for the purpose of determining the width thereof.

A lot which has only one boundary line bordering on a public street is an "interior lot."

"Rear lot" is a parcel or area of land having no boundary line bordering on a street, or having less than one-half of its width as a boundary line bordering on a street.

"Front of lot" is the boundary line of lot bordering on the street. In case of a corner lot, either of the boundary lines may be the "front of lot."

"Rear of lot" is the boundary line thereof opposite the "font of lot."

"Depth of lot" is the mean distance from the "front of lot" to the "rear of lot."

"Nuisance" embraces public nuisance as known at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health; and shall also embrace the overcrowding with occupants of any room, insufficient ventilation, or illumination, or inadequate or insanitary sewerage or plumbing facilities, or uncleanliness, and whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

"Person" is a natural person, his heirs, executors, administrators or assigns; also includes a firm, partnership, or corporation, its or their successors or assigns.

"Public hallway" is a hallway, corridor, passageway or vestibule not within a suite, and includes stairways, landings and platforms.

"Rear hotel" is a hotel on a "rear lot."

"Semi-fireproof hotel" is a building with all exterior walls and walls of inner and outer courts constructed of brick, stone, concrete, reinforced concrete or hollow terra cotta tile, except that the walls of an inner court, which court is surrounded on four sides by the same building, may be constructed as provided in this act for such inner courts; interior partitions and floors constructed of approved incombustible materials or of wood, with all ceilings, partitions, soffits of stairways, and outside stringers of open stairways and stair-wells metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with approved plaster board, plastered not less than three-quarters inch thick including the plaster board; in which all finished floors, frames, doors and the usual trim of rooms and hallways may be built of wood, and the roof of which shall be covered with at least a composition fire-retardant material.

"Shall." Whenever this word is used it shall be mandatory.

"Street" is any public street, alley, thoroughfare or park having a minimum width of sixteen feet, measured from the "front of lot" to the opposite "front of lot" and which shall have been dedicated or deeded to the public for public use.

"Turkish bath" is a dormitory or a combination of guest rooms, accommodating six (6) or more guests, in connection with which any form of bath or massage is given by the attendants to the guests.

"Wooden hotel" is a building which does not fully comply with the requirements for a fireproof or a semi-fireproof hotel as defined in this act, and shall include all frame and all veneered buildings. In every such building all ceilings and walls and partitions of public hallways, soffits of interior stairways and the outside stringers of open stairways and stair-wells shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with an approved plaster board and be plastered not less than three-quarters inch thick including the plaster board.

"Yard" is an open unoccupied space other than a court on the lot on which is situated a hotel, open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are windows from rooms abutting the said yard; except that outside stairways, platforms and balconies, constructed of open metal work and fire-escapes may extend not more than four feet into a yard, providing they do not in any manner obstruct the light or ventilation of rooms. If such yard is between the front line of the building and the front boundary line of the lot, it is a "front yard." If it is between the extreme rear line of the building and the rear of the lot, it is a "rear yard." If it extends from the rear yard to the front yard, or front of lot, it is a "side yard."

§ 11. **Front yard.** No hotel shall hereafter be erected on or moved onto a rear lot. No building for any purpose shall hereafter be erected in front of any hotel unless there shall be left unoccupied a front yard extending from the front of the rear hotel to the front line of lot bordering on the street.

Such front yard shall not be in any part less in width than fifty (50) per cent of the actual width of the rear hotel.

§ 12. **Height.** No fireproof hotel hereafter erected shall exceed one hundred fifty feet in height, nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

No semi-fireproof hotel building hereafter erected shall exceed six stories at any point, nor more than sixty-five feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

No wooden hotel hereafter erected shall exceed three stories at any point, nor more than thirty-six feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

The width of the street, for this purpose, shall be measured from the extreme front of the building to the "front of lot" opposite, across the street.

For the purpose of this section, a basement is a story.

The height of a fireproof hotel is the perpendicular distance from the curb level or adjoining ground levels to the highest point of the roof. The height of a semi-fireproof or of a wooden hotel is the perpendicular distance from the curb level or adjoining ground levels to the lowest point of the finished ceiling of the top story; provided, that in the case of a semi-fireproof hotel situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed sixty-five feet above the curb

level measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed seventy-five above the adjoining curb in case of a corner lot, or above the level of the ground in the case of an interior lot, and in the case of a wooden hotel situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed thirty-six feet above the curb line measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed forty-six feet above the adjoining curb in the case of a corner lot or above the level of the ground in the case of an interior lot.

§ 13. **Yard serving two hotels. Distance between buildings.** In no event shall any yard or court be made to serve the purpose of two hotels hereafter erected, or of an existing hotel and a hotel hereafter erected, unless such yard or court, as the case may be, is of the full size required for two hotels, and then only in the event that such yard or court, as the case may be, is located on the same lot and owned by or in the absolute lawful control and in the lawful possession of the hotel it proposes to serve.

Where a hotel, now or hereafter erected, stands upon a lot, no other building shall hereafter be placed upon the front or rear of that lot, unless the minimum distance between such buildings shall be at least ten feet and two additional feet shall be added to such minimum distance of ten feet for every story more than one in height of the highest building on such lot.

§ 14. **Depth of rear yard.** The depth of a rear yard shall be measured at right angles from the extreme rear line of the building towards the rear lot line.

§ 15. **Minimum size of rear yard.** The minimum size of every rear yard for a hotel hereafter erected shall be not less in width and in area than an inner court, except that if such rear yard is bounded on its entire one end or side by an outer court, or by a side yard or by a street, or by a public alley or park, then such rear yard shall be not less in width or exceed the maximum length of an outer court; provided, however, that if the lot extends through from one street to another street or public alley, one-half of the narrowest street or public alley, to which said lot abuts may be considered as a part of the lot in computing the rear yard required.

§ 16. **Passageway to street.** Every rear yard not bordering on a street or public alley and without direct access thereto shall have access to a street or public alley by means of an unobstructed passageway not less than three feet six inches in clear width, nor less than seven feet in clear height; and if such passageway or any portion thereof passes through a building, such portion thereof shall be built of approved incombustible materials, or shall be lathed with metal lath or approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board, or shall be lined with not less than number twenty-six (gauge) galvanized iron, and shall be drained and lighted.

§ 17. **Excavated front yard.** Every front yard which is excavated below the level of the curb or below the adjoining ground level for the purpose of furnishing light and ventilation to a basement shall in no part be less in width and length than required for outer courts.

§ 18. **Width of side yard.** The width of every side yard shall be not less than the width required for an outer court, except that the provisions of this act regarding the maximum lengths of an outer court shall not apply to a side yard; provided, that if there is a side yard on both sides of the building connected one with the other across the rear of the building by the rear yard, then the width of the side yards may be reduced twelve inches.

§ 19. **Minimum size of outer court.** The minimum size of every outer court for a hotel hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is a guest room or guest rooms, or a dormitory or dormitories	Minimum width of court	Maximum length of court
1 story	4 ft. 0 in.	16 ft. 0 in.
2 stories	4 ft. 0 in.	16 ft. 0 in.
3 stories	4 ft. 6 in.	25 ft. 0 in.
4 stories	5 ft. 6 in.	30 ft. 0 in.
5 stories	6 ft. 0 in.	35 ft. 0 in.
6 stories	8 ft. 0 in.	35 ft. 0 in.
7 stories	10 ft. 0 in.	40 ft. 0 in.
8 stories	12 ft. 0 in.	40 ft. 0 in.
9 stories	13 ft. 0 in.	40 ft. 0 in.
10 or more stories	14 ft. 0 in.	40 ft. 0 in.

There shall be added to the minimum width of each such outer court six inches for each five feet or fractional art thereof in excess of the maximum length; provided, however, that the maximum lengths herein provided shall not apply when the outer court is bounded on one side for its entire length by a lot line; provided, further, that if an outer court is bounded by a public alley or public park, the width of such public alley or public park may be considered a part of the lot in determining the required width of the outer court.

§ 20. **Minimum size of inner court.** The minimum size of every inner court for a hotel hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is a guest room, or guest rooms, or a dormitory or dormitories	Minimum width of court	Minimum area of court in square feet
1 story	6 ft. 0 in.	75 square feet
2 stories	6 ft. 0 in.	75 square feet
3 stories	7 ft. 0 in.	120 square feet
4 stories	8 ft. 0 in.	160 square feet
5 stories	12 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more	24 ft. 0 in.	840 square feet

provided, however, that the minimum size of every inner court which is bounded on one side for its entire length by a lot line may be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is a guest room, or guest rooms, or a dormitory or dormitories	Minimum width of court	Minimum area of court
1 story	5 ft. 0 in.	75 square feet
2 stories	5 ft. 0 in.	75 square feet
3 stories	6 ft. 0 in.	120 square feet
4 stories	7 ft. 0 in.	160 square feet
5 stories	9 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more	24 ft. 0 in.	840 square feet

Every inner court hereafter constructed and every inner court or vent shaft now in any hotel or lodging-house shall be provided with a door or window at or near the bottom thereof, giving sufficient access to such court or vent shaft as to enable it to be properly cleaned out.

§ 21. **Recess.** Every recess from a court, yard or street in a hotel hereafter erected shall unless it conforms to the requirements of this act for an inner court, or an outer court, be not less in width than its depth. Every such recess shall be open and unobstructed from a point not more than two feet above the floor line of the lowest story in the building in which there are rooms the said recess proposes to serve.

§ 22. **Intakes for inner court. Construction.** Every inner court in a hotel of two or more stories in height hereafter erected shall be provided with one or more horizontal intakes at the bottom of the court, as follows:

Inner court areas	Minimum number of intakes	Net aggregate area of intakes
Each not exceeding 300 square feet	One	19½ square feet
Each not exceeding 800 square feet	Two	40 square feet
Each exceeding 800 square feet	Two	60 square feet

Every such intake shall always extend directly to the front of lot or front yard, or rear yard, or to a side yard, or to a street, or to a public alley or park. Whenever more than one intake is required, one such intake shall extend to the font of lot or front yard, and one to the rear yard, public alley, public park, or to the other street, and the court ends of the air intakes shall be as far apart as possible.

Each such intake shall consist of an unobstructed duct or passageway having a minimum width of three feet in all its parts and a minimum height of six feet six inches.

Every such intake shall be constructed of approved incombustible materials, or shall be lined with at least number twenty-six (gauge) galvanized iron on the inside thereof. Such air intakes may be closed at each end with a gate or grill having not less than seventy-five per cent of open work.

In case the inner court does not extend below the second floor level, then each such air intake may consist of an unobstructed open duct,

constructed of approved incombustible materials or lined with at least number twenty-six (gauge) galvanized iron on the inside thereof, having an interior area of not less than nineteen and one-half square feet, and in no dimension less than twelve inches, and covered at each end with a wire screen of not less than one inch mesh.

Every air intake shall be drained and so constructed and arranged as to be readily cleaned out.

§ 23. **Cellars.** In no hotel shall any room in the cellar be constructed, altered, converted or occupied for sleeping purposes.

Every cellar shall be illuminated and ventilated. The walls and floor of every cellar hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 24. **Basements.** In no hotel shall any room in the basement be constructed, altered, converted or occupied for sleeping purposes, unless such room conforms to all of the requirements of this act for rooms in other parts of the building, and that ceiling of each such room be in all parts not less than seven feet above the adjoining ground level.

Every basement shall be illuminated and ventilated. The walls and floors of every basement hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 25. **Ventilation beneath floor.** In every hotel hereafter erected, the lowest floor thereof shall be at least eighteen inches above the surface soil adjoining and under the floor, and the entire space under such floor shall be kept dry, drained, clean and free from any accumulation of rubbish, debris or filth.

Such space under the floor shall be enclosed and provided with a sufficient number of openings with removable screens or similar provisions of a size to insure ample ventilation; provided, however, that in any such building the lowest floor thereof may be less than eighteen inches above the surface soil but in no case less than six inches (except where masonry floors are laid directly on the soil) if the said floor is made impervious to the ingress of rats or other vermin, as follows:

(a) **Floor made impervious to rats.** Foundation walls shall be constructed of concrete or of brick or stone or other masonry laid in a good mortar or constructed of some other equally as rat-proof material.

(b) The said foundation walls shall be not less than six inches in thickness at the top nor less than twelve inches in thickness at the bottom, nor extend less than twelve inches below the surface soil, and except where masonry floors are laid directly on the soil, shall extend not less than six inches above the surface soil.

(c) Every opening in the foundation walls, for ventilation or for other purposes, shall be made rat proof with suitable metal screens or with some other similar rat-proof material. Door or window openings in such walls shall have tight-fitting doors or windows.

(d) The said lowest floor or differing levels thereof, forming a complete floor between the outside walls of the building, shall be constructed either of masonry, or covered with concrete not less than one and one-half inches thick, or constructed of two layers of flooring with a layer of galvanized iron or galvanized iron wire cloth or other approved equally as rat-proof material placed between the two layers of flooring. Or in lieu of the floor being constructed as herein prescribed, the entire ground area under the floor shall be covered with concrete not less than two inches thick, except where the surface of the soil is composed of rock. The rat-proofing material shall always extend under the plates of the exterior walls and supporting partitions.

(e) All openings throughout the said floor for chimneys, plumbing, water pipes or for any other purpose shall be closed up tight in the same manner and with the same kind of materials as required under the plates of the exterior walls and supporting partitions, and if the rat-profing material used for the closing of openings is other than masonry, it shall extend beyond and underlap the flooring all around the opening, not less than two inches.

§ 26. Floor area of guest room. Width and height. Curtains. In every hotel hereafter erected, every guest room shall contain not less than ninety square feet of superficial floor area. Every such room shall at every point be not less than seven feet in width, nor less than nine feet in height, measured from the finished floor to the finished ceiling; except that attic rooms and rooms where sloping ceilings occur need be nine feet in height in but one-half the area of the room.

Every water-closet compartment shall be not less than thirty-six inches in clear width, and every such water-closet compartment, bath or slop-sink compartment, or closet or recess from a room, or dressing-room shall have a height of not less than seven feet six inches, measured from the finished floor to the finished ceiling.

Every closet, recess from a room, or dressing-room which contains more than twenty-five square feet of superficial floor area (built-in dressers, clothes-presses and similar features which are a substantial part of the structure shall not be deemed to be part of the floor erea of a closet, recess from a room, or dressing-room), shall conform to all of the provisions of this act as to guest rooms, and shall contain not less than ninety square feet of superficial floor area.

No part of any room in any hotel shall hereafter be enclosed or subdivided wholly or in part, by a curtain, portiere, fixed or movable partition, or other contrivance or device, for any purpose, contrary to any of the provisions of this act.

Entertainment, amusement or reception rooms, or public dining-rooms, hereafter constructed, altered or converted in any hotel shall conform to the provisions of section thirty of this act.

Dormitories hereafter constructed, altered or converted in any hotel shall conform to the provisions of section sixty-two of this act.

§ 27. Windows. Opening into vent shaft. Opening through porch. Ventilation by exhaust system. In every hotel hereafter erected, every guest room, dormitory, kitchen, scullery, pantry or other room in which food is stored or prepared, public dining-room, laundry, barber shop,

Turkish baths, general amusement, entertainment or reception-room, water-closet or shower compartment, bath, toilet or slop-sink room and general utility room shall have at least one window, of the area hereinafter required, opening directly upon a street, or upon a yard or court of the dimensions specified in this act and located on the same lot.

All windows required by this act shall be located so as to properly light all portions of the room and shall be made so as to open in all parts and be so arranged that at least one-half of the window may be opened unobstructed.

The windows required by this section in a water-closet or shower compartment, bath, toilet or slop-sink room may open directly into a vent shaft in lieu of a street, yard or court. Such vent shaft to be not less than of the minimum size, and constructed of the materials and in the manner prescribed by section fifty-seven of this act, or such rooms or compartments, in lieu of being provided with windows may be ventilated by an exhaust system of ventilation installed, constructed and maintained as prescribed by section sixty-one hereof.

The windows required by this section to open onto a street, yard, or an outer court, except windows from kitchens, may open through porches, provided that said porches do not exceed seven feet in depth, measured at right angles to the windows and that at least seventy-five per cent of the entire side of the porch, bounded by the street, yard, or outer court, is left open except that the open space may be inclosed with mosquito screens.

Kitchens, sculleries, pantries or other rooms used for cooking, storing or preparing of food, public dining-rooms, laundries, barber-shop, Turkish baths, general amusement or reception-rooms and general utility rooms, in lieu of windows may be ventilated by an exhaust system of ventilation installed, constructed and maintained as prescribed by section sixty-one hereof.

§ 28. **Window area.** In every hotel hereafter erected, the total window area in each guest room, kitchen, scullery, pantry or other room in which food is stored or prepared, laundry, barber-shop, Turkish bath, or general utility room, shall be at least one-eighth of the superficial floor area of the room.

The aggregate window area in each room shall be not less than twelve square feet and no single window shall be less than six square feet in area.

All measurements for window area shall be taken to the outside of the sash.

The window area required for dormitories, entertainment, amusement, reception or dining rooms shall be as hereinafter provided.

§ 29. **Window area.** In every hotel hereafter erected each window in a water-closet compartment, bath, toilet or slop-sink room, or shower-room, shall be not less than three square feet in area. The aggregate area of windows for each such compartment or room shall be not less than six square feet. In each such compartment or room containing more than one water-closet, bath, urinal or slop-sink, the aggregate window area shall be equivalent to three square feet for each water-closet, bath, urinal or slop-sink therein; except that at no time need the aggre-

gate window area exceed one-fourth of the superficial floor area of such compartment or room.

§ 30. **Total window area in dining-room, etc. Height of rooms.** In every hotel hereafter erected the total window area in each room used for the purpose of entertainment, amusement, reception or dining-room, which room has a superficial floor area not exceeding one hundred eighty square feet, shall be at least one-eighth of the superficial floor area of such room.

Every such room which has a superficial floor area exceeding one hundred eighty square feet shall have an aggregate window area not less than that required for a room of one hundred eighty square feet of superficial floor area.

Every such entertainment, amusement, reception or dining room shall have a minimum height between the finished floor and the finished ceiling of not less than nine feet. No such room or part thereof shall be used for sleeping purposes, except that said room or part thereof complies with all of the other provisions of this act for guest roooms.

§ 31. **Windows in public hallway. Skylights. French windows.** In every hotel hereafter erected every public hallway, on any floor where there are more than five guest rooms, shall have at least one window, opening directly upon a street, or upon a yard or a court, of the dimensions specified in this act and located on the same lot; such windows shall be at the end of the public hallway and placed so as to secure the maximum light into the hallway; provided, however, that in hotels not exceeding two stories in height the public hallway may, in lieu of such windows, be lighted and ventilated by one or more skylights constructed in accordance with the provisions of this act.

Every window required by this act in a public hallway shall be not less than twenty-nine inches in clear width, nor less than fifty-eight inches in height, and the finished sill of same shall be not more than thirty inches above the adjoining finished floor.

Every window shall be made so as to open, and so arranged that at least one-half of the window may be opened unobstructed.

Every skylight provided for in this section shall have an effective horizontal area of glass of not less than fifteen square feet, and shall have ridge ventilators or fixed or movable louvres so as to provide a ventilating area of not less than five hundred square inches. Such skylights shall be so located that no portion of the hallway be distant more than twenty feet, measured from a vertical line, from a skylight opening.

Any part of a public hallway which is offset, recessed, or cut off from any other part of a hallway where such offset or recess is more in length than one and one-half times the width of the public hallway from which it offsets or recesses, shall be deemed a separate public hallway within the meaning of this section.

French windows or doors, if arranged to open and glazed to give the areas of opening and glass required by this act for winodws in public hallways, may be used in lieu of windows therein.

§ 32. **Ventilating syklight.** In every hotel two or more stories in height hereafter erected, where there are more than five guest rooms on

any one floor, there shall be provided at the roof over each stairway a ventilating skylight, placed directly as practicable over same, having a minimum effective horizontal area of glass at least twenty square feet in area for buildings two stories in height, and the area of glass in such skylight shall be increased at the ratio of six square feet for each additional story in height. In every such skylight the ventilating area shall be not less than five hundred square inches.

Every such skylight, ventilating openings, shutters and closing and opening devices for the ventilating openings, shall be made of approved incombustible materials, and so arranged that the entire ventilating area may be readily opened from at least the topmost and first story levels; except that in hotels not exceeding four stories in height the ventilators may be arranged so as to open from at least the first story, or may be fixed permanetly in an open position.

Skylights as in this section prescribed may be omitted in case that windows are provided of the size fixed by section thirty-one hereof, and located adjoining the stairways, and that each window adjoining the stairway be provided with an open louvre or ventilator providing a ventilating area of not less than one hundred square inches or such louvre or ventilator may be placed in the roof over the stairway in which event the ventilating area shall be not less than five hundred square inches.

Whenever a skylight is required, as in this section provided, there shall be constructed a stair well, the clear open area of which shall be at each floor equal to one-third of the area of the glass in the skylight.

§ 33. **Water-closets. Waterproof floor.** In every hotel hereafter erected there shall be installed not less than one water-closet in a separate compartment, located on the public hallway, for each sex on such floor. One of such water-closets shall be distinctly marked "for men," and one of the water-closets distinctly marked "for women"; and there shall be installed not less than one water-closet in a separate compartment, located on the public hallway, for every ten guest rooms, or fractional part thereof, on such floor, which are not provided with private water-closets. Each of the said water-closets shall be accessible from each of the guest rooms through the public hallway, and not more than one hundred feet distant from the entrance door of each of the guest rooms the said water-closet proposes to serve.

In every hotel hereafter erected there shall be installed not less than one water-closet for every twenty employees of each sex in said building.

No door or other opening in a water-closet or urinal compartment shall open from or into any room in which food is prepared or stored.

The walls enclosing a water-closet compartment shall be well plastered, or constructed of some nonabsorbent material, except that the ordinary wood trim for openings may be used in such a compartment. Every water-closet compartment shall be provided and equipped with a full door, properly hung, and provided with a lock or bolt to lock same.

The floor of every water-closet compartment hereafter constructed shall be made waterproof with asphalt, tile, marble, terrazzo, cement or some other similar nonabsorbent material, and such waterproofing shall extend not less than six inches on the vertical walls of the compartment.

§ 34. **In hotel already erected. Sewer connection required.** In every hotel erected prior to the passage of this act there shall be installed not less than one water-closet in a separate compartment, located on the public hallway for each sex; one of such water-closets shall be distinctly marked "for men," and one of the water-closets shall be distinctly marked "for women"; and there shall be installed not less than one water-closet in a separate compartment, located on the public hallway, for every twelve guest rooms, or fractional part thereof, on such floor, which are not provided with water-closets; provided, however, that the housing department charged with the enforcement of this act may exempt any hotel existing at the time of the passage of this act from fully complying with the provisions of this paragraph when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof, or to the sanitation of the said hotel or premises; provided, further, that no such exemption shall apply to any addition or extension to a hotel.

Every water-closet hereafter placed in a hotel erected prior to the passage of this act shall comply with every provision of this act relative to water-closets installed in hotels hereafter erected, except that if a water-closet is installed in the top story of any such building, the compartment in which it is installed may be ventilated by a skylight with fixed louvres in lieu of a window; provided, however, that a new water-closet may be installed to replace a defective or antiquated fixture in the same location. No door or other opening in a water-closet, privy, or urinal compartment shall open from or into a room in which food is prepared or stored.

Every hotel erected prior to the passage of this act or hereafter erected, where a connection with the sewer is possible, shall discontinue the use of any school sink, privy vault or any similar receptacle used to receive fecal matter, urine or sewage, and every such receptacle shall be completely removed and the place where it was located be properly disinfected. All such receptacles shall be replaced by individual water-closets of durable nonabsorbent material, properly connected, trapped, vented and provided with flush tanks, the same as is required, by the provisions of this act, in hotels hereafter erected.

§ 35. **Bathtub or shower.** In every hotel hereafter erected there shall be installed not less than one bathtub or shower, in a separate compartment, located on the public hallway, for every ten guest rooms, or fractional part thereof, not provided with private baths; provided, that the said bathtub or shower is on the same floor and is accessible from each guest room through the public hallway. There shall also be installed not less than one slop-sink on each floor.

The walls and floors to every bath, shower or slop-sink room hereafter constructed shall be waterproofed and shall be provided with doors in the same manner as required for the construction of water-closet compartments in hotels hereafter erected.

§ 36. **In hotel already erected.** In every hotel erected prior to the passage of this act there shall be installed not less than one bathtub or shower, in a separate compartment, located in the public hallway, for every twenty guest rooms, or fractional part thereof, which are not

provided with private baths; provided, that the said bathtub or shower is located on the same floor and is accessible from each guest room through the public hallway.

There shall also be installed not less than one slop-sink on each floor; provided, however, that the housing department charged with the enforcement of this act may exempt any hotel existing at the time of the passage of this act from fully complying with the provisions of this section when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof, or to the sanitation of the said hotel or premises; provided, further, that no such exemption shall apply to any addition or extension to a hotel.

§ 37. **Running water. Sewer.** In every hotel hereafter erected every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

Every plumbing fixture affecting the sanitary drainage system in any hotel hereafter erected, shall be properly connected with the street sewer, if a street sewer exists in the street abutting the lot on which the building is located and is ready to receive connections. When it is impracticable to connect such plumbing fixtures with a street sewer, then the plumbing fixtures shall be connected and drained into a cesspool constructed satisfactorily to the department charged with the enforcement of this act; or some other means of sewage disposal satisfactory to the department charged with the enforcement of this act may be made until such time as it may become practicable and possible to connect with the street sewer.

§ 38. **In hotel already erected.** In every hotel erected prior to the passage of this act, every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

§ 39. **In case no running water. Privy.** Water-closets, baths, showers, sinks, slop-sinks, faucets and other plumbing fixtures required by this act need not be installed in the event that the hotel hereafter erected or an existing hotel, as the case may be, is situated where there is no running water and where there is no practical means of sewage disposal, until such time as it becomes practicable and possible to obtain running water and means of sewage disposal; provided, in every such case the department charged with the enforcement of this act shall decide whether or not it is practicable and possible to provide running water and proper means of sewage disposal. A special permit in writing shall be obtained in every such case from the department charged with the enforcement of this act, which permit shall be made in duplicate, and a copy thereof shall remain on file in the department issuing it; provided, further, that proper, separate toilet facilities for each sex shall be provided for the use of the occupants of such building. Such facilities shall be made sanitary. A privy, or toilet other than a water-closet, erected

under the authority of this section shall consist of a pit at least three feet deep, with suitable shelter over the same to afford privacy, and protection from the elements. The openings of the shelter and pit shall be enclosed by mosquito screening, and the door to the shelter shall be made to close automatically by means of a spring or other device. No privy pit shall be allowed to become filled with excreta to nearer than one foot from the surface of the ground, and the excreta in the pit shall be covered with earth, ashes, lime or similar substances at regular intervals.

All drainage water shall be conveyed from the premises by means of a covered drain to a covered cesspool.

§ 40. **Plumbing fixtures made sanitary.** In every hotel erected prior to the passage of this act all plumbing fixtures affecting the sanitary drainage system shall be properly trapped and vented and made sanitary in every particular. In any hotel hereafter erected, and in any hotel erected prior to the passage of this act no plumbing fixtures shall be inclosed with woodwork, but the space under and around same must be left entirely open. All woodwork inclosing a water-closet, sink, slop-sink, wash-tray or lavatory shall be removed and the floor and wall surfaces beneath and around such water-closet, sink, slop-sink, wash-tray or lavatory shall be maintained in good repair, and if of wood, well painted with a light-colored paint of sufficient body to make it nonabsorbent. All wooden seats, attached to water-closet bowls, shall be varnished or enameled, or by some other method made nonabsorbent.

In every hotel hereafter erected water-closets shall have earthenware bowls and shall have earthenware seats integral with the bowls, or wooden seats, varnished or enameled so as to be nonabsorbent, or seats made of some nonabsorbent material attached directly to the bowls. No wooden wash-trays or wooden kitchen sinks shall be permitted in such buildings. All plumbing connections hereafter made in buildings shall be of standard lead, iron, steel or brass; and every gas and water service connection hereafter made shall be of steel or iron, and shall be equipped with cut-off valves placed outside of the building, and such cut-off valves shall be readily accessible.

Whenever any plumbing fixture becomes insanitary the department charged with the enforcement of this act is hereby empowered to order the same removed and to order that it be replaced by a fixture conforming to the provisions of this act.

§ 41. **Two means of egress.** Every hotel hereafter erected, three or more stories in height and in which there are more than five guest rooms on any one floor, shall be so designed and constructed that every guest room in such building shall have not less than two means of egress, either by stairways or fire-escapes, constructed in accordance with the provisions of this act. Such means of egress shall be accessible from every guest room, either directly or through a public hallway, and so located that should one egress be or become blocked, the other egress shall be available.

§ 42. **Stairways.** Every hotel two or more stories in height, hereafter erected shall have not less than two stairways.

Every fireproof hotel two or more stories in height hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each six thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every semi-fireproof hotel two or more stories in height hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each four thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every wooden hotel two or more stories in height hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each three thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every hotel hereafter erected shall have not less than one stairway leading from the outside to every basement or cellar thereof.

§ 43. **Computing number of stairways required.** The largest floor area above the ground floor shall be used as the basis for computing the number of stairways required in a hotel hereafter erected; provided, that if all floors above the largest floor area of the building are diminished in area, the stairway or stairways from that portion of the building containing a smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 44. **Location of stairways.** All stairways hereafter constructed shall be located so as to furnish the best means of egress from the building, shall be as far removed from each other as is practicable, and shall be as follows:

Access to stairways shall be provided at every floor by means of a public hallway, corridor, or passageway, and the public hallway, corridor, passageway and stairway from the ground exit level to the top story or roof shall be accessible at all times.

No stairway shall abut on more than one side of an elevator shaft, except on the entrance and topmost stories; provided, that the stairway is so located that it can be approached from the street entrance without passing by or in front of the open side of the said elevator shaft.

No stairway shall be located over a steam boiler, gas meter or gas heater or furnace, unless such boiler, gas meter, gas heater or furnace be located in a room, the walls and ceiling of which are constructed as required for a boiler-room by section fifty-nine of this act. No stairway leading from any other portion of the building shall terminate in or pass through a boiler-room.

§ 45. **Construction of stairways.** Every stairway hereafter constructed shall be as follows: Have a rise of not more than eight inches and a run of not less than nine inches, without change in the run or rise between floors; and shall be provided with head room of not less than six feet six inches, measured from the nearest nosing of the stairway to the nearest soffit.

The depth of every landing in a stairway shall be not less than the width of the stairway, and all treads shall be of equal width for every run of stairs, and shall not vary in width in the width of the stairs.

Every stairway required by this act shall be continuous from the ground level to the top story, i. e., the flights of such stairway shall be

constructed one directly above the other, or shall be constructed so that each flight shall be in plain view of each succeeding flight; provided, however, that half of the stairways from the upper floors may terminate at the second floor, in the event that the stairways from the first to the second floor be increased in width not less than fifty per cent.

Every stairway shall have at least one handrail and if the stairway be five feet or more in width, shall have a handrail on each side thereof.

The under side and soffits of wooden stairways and the outside stringers of open stairways, except outside stairways in semi-fireproof and wooden hotels shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with approved plaster board and plastered not less than three-quarters inch thick including the plaster board.

The width of stairways shall be measured in the clear of all projections except the baseboards, and except that handrails and newel posts may project not more than four inches.

§ 46. **Space under stairway.** No closet of any kind shall be constructed in any hotel under any wooden stairway, but such space shall be kept entirely open, and be kept clean and free from all encumbrance; or such space shall be effectually closed with walls of studs, lathed and plastered, with no door or opening of any kind therein; provided, however, that the provisions of this section as to a closet under a stairway shall not apply to any hotel not more than two stories in height, in which there are not more than five guest rooms above the first floor thereof.

§ 47. **Stairway to roof. In hotel already erected.** In every hotel hereafter erected more than two stories in height, the stairway nearest to the main entrance of the building shall be carried to the roof level and shall give egress to the roof through a penthouse or roof structure. In every such building not exceeding two stories in height there shall be constructed a scuttle, in the public hallway, near the stairway. Such scuttle shall be not less than two feet by three feet in area, and shall be cut through the ceiling and roof.

Penthouses over stairways shall be built either of fireproof materials or of wood studs, lathed with metal lath or approved plaster board and plastered not less than three-quarters inch thick including the lath or plaster board on the inside and outside thereof; or such penthouses may be covered in the same manner and with the same kind of materials as required by this act for the doors from such penthouses.

The door to the roof from a penthouse or roof structure shall be self-closing and shall open outward to the roof and shall be covered on both sides and edges with tin or other metal.

The frames and trim of such door opening shall be similarly constructed and all glass in such door shall be wired glass not less than one-fourth inch thick.

Every hotel of more than two stories in height, erected prior to the passage of this act, shall have in the roof a penthouse or a scuttle, which scuttle shall be not less than two feet by three feet in area, located in the ceiling of a public hallway. There shall be provided a stairway or a stationary ladder leading from the top floor of such hotel

to the roof thereof. Such stairway or stationary ladder shall be made readily accessible to all tenants of the building. No scuttle or penthouse door shall at any time be locked with a key, but may be fastened on the inside by a movable bolt or lock.

§ 48. **Hallways, etc., from stairways.** Public hallways, landings, and corridors from stairways shall be of the same width and measured in the same manner as the stairways, as provided in section forty-six hereof.

§ 49. **Fire-escapes.** On every hotel hereafter erected more than two stories in height, there shall be provided at least one fire-escape. If such hotel exceeds three thousand square feet of floor area on any one floor above the second floor thereof, such building shall be provided with one additional fire-escape for each four thousand square feet of floor area or fractional part thereof.

Fire-escapes required by this act shall be of one of the following types:

Type 1. **Types of fire-escapes.** Metallic throughout and fastened securely to the exterior walls of the building, with a balcony at each story above the first story thereof, with inclined stairways connecting all balconies and a goose-neck ladder connecting the topmost balcony to the roof. The lowest balcony of such fire-escape to be not more than fourteen feet above the street or ground level directly under same.

All metallic balconies shall be not less than forty-four inches in width nor less than thirty-three square feet in area. The stairway openings therein shall be not less than twenty-one inches wide and forty inches in length. The balcony balustrade shall be not less than thirty-four inches high, with no opening in such balustrade greater than eight inches in horizontal dimension.

There shall be no opening greater than one inch in width in a fire-escape balcony platform, except the stair-well opening.

There shall be no opening greater than one inch in width in the lowest fire-escape balcony platform, except that there be attached a counter-balanced or permanent ladder reaching to the street or ground below.

Every balcony platform shall be fastened to the outside walls of the building by building in and anchoring to such walls the balcony platform and the balustrade framing, or by securely bolting same thereto. Every balcony shall be supported by brackets, braces, or struts fastened to or built in and anchored to the walls.

The inclined stairways shall be not less than eighteen inches in width and placed in no part nearer than twenty-one inches from the face of the wall. Such inclined stairways shall have an inclination of not less than four inches and not more than six horizontally to each twelve inches of vertical height. The treads shall be not less than four inches wide, placed not more than twelve inches apart. Each side of such stairways shall be provided with a handrail not less than one inch in diameter fastened to the stair stringers and continued around the well hole openings of balcony platform.

The goose-neck ladder shall be not less than fifteen inches wide and extend vertically from the topmost balcony to three feet above the fire wall or roof above, and then be brought down and fastened to the inside face of the fire wall or to the roof. The rungs of the goose-neck ladder shall be not less than five-eighths inch round iron or steel, placed not

more than fourteen inches apart. The goose-neck ladder shall be securely braced and fastened to the outside wall, and in no case shall such ladder pass in front of any opening in the wall to the interior of the building. The cornice opening for the passage of such ladder shall be not less than twenty-four inches in width and twenty-four inches in the clear outside of the ladder.

Such fire-escape shall be framed and riveted or bolted together in a solid, substantial manner and properly supported, braced and fastened to the outside walls so as to be rigid, durable and secure and carry the loads imposed.

All metallic fire-escapes shall be painted with not less than two coats of good, durable paint; or such fire-escapes may be galvanized.

Type 2. Metallic ladders and stairways conforming to the provisions set forth for type one and with reinforced concrete or iron or steel fireproofed balconies, with fastenings of similar materials. Such balconies to measure the full size inside of balustrades. Floor openings and well holes provided and protected similarly to the requirements for metallic balconies.

Type 3. Any type of a inclosed approved metallic spiral fire escape which consists of a rigid form of an inclined chute or chutes constructed entirely of incombustible material; securely attached to the outside walls of the building; provided with proper means of ingress thereto from the building and egress therefrom at the bottom; having means enabling firemen to reach the roof thereby from the ground; equipped with standpipes; painted the same as provided for metallic fire-escapes; and satisfactory to the department charged with the enforcement of this act as being as solid, substantial and durable and as fireproof in construction, and providing at least as safe and efficient means of escape from the building for the occupants thereof, and furnishing all the protection and utility of the metallic fire-escape described as "type one" in this act.

Type 4. Fire and smoke towers, consisting of a fire-escape stairway not less than twenty inches in width, constructed of reinforced concrete, iron or steel, or a combination of these materials; and in all other details as required in this act for metallic fire-escape stairways; said stairways being continuous the full height of the building from the first floor exist level to the roof, and with handrails on each side thereof the full length of same. Such stairways to be constructed at a point adjoining the exterior walls of the building and be entirely enclosed with walls of brick, terra cotta tile, concrete or reinforced concrete not less than twelve inches thick; such walls to be continuous from the basement up to and extending three feet above the roof of the building, with no covering of any kind over same, and with no openings in the walls of such tower into the building. The inclosing walls of such tower not to be used to carry or support any floor joist, beam, girder or other structural feature of the building, nor to be chased for any pipe, conduit or other purpose; to have an exit from the inclosure at the first floor line opening directly to a street or yard, and having an entrance by means of an outside balcony at each floor, such balconies to have a solid floor and in all other details and kind of materials to be as in this act required for metallic fire-escape balconies. The balconies to be located and arranged to connect with a door opening from a public hallway

in the interior of the building and with a door opening leading from the balcony to the tower, such door opening from the building to the balcony and from the balcony to the tower to be not less than thirty inches wide by seventy-two inches high and be equipped with metal-lined doors and with a frame and threshold of such door openings constructed of fireproof materials.

Type 5. A fire and smoke tower in every way similar to "type four" of this section, except that instead of the outside balcony there be built a vestibule with inclosing walls continuous with and of the same kind of materials and of the same thickness as the inclosing walls of the fire tower; that the vestibule opening be direct from a public hallway and be equipped with metal-lined doors. The vestibule floor to be of masonry construction. The inclosure to have an opening at each floor through the exterior wall of the building, such opening to extend from the floor to the ceiling and be not less in width than three-fourths of the width of the tower, said opening to be protected with an open metallic balustrade similar to that specified for metallic fire-escape balconies.

§ 50. **Stairway and fire-escape combined.** In any hotel hereafter erected in which there is constructed a fire-escape of "type four" or "type five," as prescribed in this act, such fire-escape may be used and construed as a stairway and a fire-escape combined; provided, that there is at least one other stairway or one other fire-escape constructed in accordance with the provisions of this act, in the said building.

§ 51. **Location of fire-escapes.** Every fire-escape required by this act shall be located on the building so as to furnish the best means of escape therefrom for the occupants, and at least one such fire-escape shall be located on a street front. Every such fire-escape shall have egress thereto from a public hallway or passageway not less than three feet wide, or such fire-escapes, in lieu of being located on a public hallway, shall be so located that each guest room has direct egress thereto without passing through another room. If a public parlor, public lobby, or similar room is connected directly with the public hall, corridor or passageway through a clear and unobstructed opening, without doors, then egress may be had thereby to a fire-escape. Signs both pointing towards and marking the locations of fire-escapes shall be placed on each floor.

§ 52. **Computing number of fire-escapes required.** The largest floor area above the second floor shall be used as a basis for computing the number of fire-escapes required by this act; provided, that if all floors above the largest floor area are diminished in size, the number of fire-escapes from that portion of the building containing the smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 53. **Strength of platform, etc. Strength of fastenings, etc.** All parts of each balcony platform of a fire-escape shall be designed to carry, in addition to the dead load thereof, a live load of one hundred pounds per square foot over the entire area thereof, using outside dimensions, and the live and dead loads from the ladders or stairs supported thereon.

Each ladder shall be designed to withstand a horizontal pressure of one hundred pounds per square foot.

Each stairway shall be designed to carry, in addition to the dead load thereof, a live load of one hundred fifty pounds per square foot of horizontal projection.

Top rails of balcony balustrades shall be designed to withstand a horizontal pressure of one hundred pounds per lineal foot of railing.

Each balcony shall be independently supported.

All fastenings of fire-escape balconies to the building shall be designed to carry twenty-five per cent greater load than the total dead and live loads carried by the balconies. The balcony anchorage shall be direct to the structural steel or iron members of the balustrades and platforms extended into the walls and anchored into the structural work of the building.

The level of the inside sill of the door or window giving access to a fire-escape balcony or the balcony floor shall be not more than thirty inches above the adjoining floor in the building. Every such door or window opening shall be not less than twenty-nine inches in clear width nor less than fifty-eight inches in height.

Where double-hung windows are used in such openings, the lower sash shall be at least the size of the upper sash and shall slide to the top of such opening. Any lock used on any such window shall be of a type which can be readily opened from the interior of the building without the use of a key or other tool.

§ 54. **Readily accessible.** Every fire-escape in or on a hotel hereafter erected, or in or on a hotel erected prior to the passage of this act, shall at all times be maintained in good order and repair, well painted and clear and unobstructed at all times, and be readily accessible.

§ 55. **Standpipes.** On every hotel hereafter erected four or more stories in height, there shall be provided one or more metallic standpipes. Each such standpipe shall be not less than four inches in internal diameter, and shall have a Siamese inlet valve near the sidewalk or ground directly under the same, and an outlet valve at each story above the first story and on the roof.

One such standpipe shall be placed on or in the exterior walls of the building at one fire-escape on each street frontage, and the outlet valves shall be readily accessible from the balconies of the fire-escapes.

The inlet and outlet valves on every standpipe shall be threaded and brought to a size which will meet the standard connections of the local fire department of the municipality in which such hotel or lodging house is being erected.

The standpipes required by this section need not be installed in any hotel which is situated where there is no running water and where it is not practicable or possible to obtain water for efficient use of such standpipes in case of fire, until such time as it is practicable and possible to obtain running water; and the department charged with the enforcement of this act shall decide whether or not it is possible or practicable to obtain running water.

§ 56. **Elevator shaft inclosed.** In every fireproof hotel hereafter erected, every elevator shaft, dumb-waiter shaft or other interior shaft

shall be inclosed in walls constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard, incombustible materials, or shall be constructed of metal studs lathed either with metal lath or an approved plaster board and plastered on both sides so as to make a solid partition not less than two inches thick.

In every semi-fireproof or wooden hotel hereafter erected, every such shaft shall be inclosed by walls constructed as provided by this act for fireproof hotels, or such walls shall be constructed with wood studs, with wood firestops the same size as the studs, cut in between the studs at each floor and halfway between each floor, lathed on both sides with metal lath or an approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board.

Every opening from any shaft into the building shall be equipped with a metal door and with door frame and trim entirely of metal; or such door and door frame shall be constructed of wood covered with metal on the shaft side thereof, and if there is any glass therein, such glass shall be wired glass not less than one-fourth inch thick Every door or window therein shall be made to close tight, and every door except elevator doors therein shall be self-closing.

Every window in such shaft shall be of wired glass, not less than one-fourth inch thick, set in a metal sash or a sash metal-covered on the shaft side thereof.

At the roof over every elevator shaft there shall be constructed a ventilating skylight or a ventilator with open louvres.

§ 57. **Vent shafts inclosed.** In every hotel hereafter erected every vent shaft shall be inclosed by walls constructed the same as required by this act for elevator shafts in the same class of building. Such vent shafts may, in a semi-fireproof or wooden hotel, be lined on the outside thereof (weather side) with metal in lieu of metal lath and plaster; also that portion of such shaft extending from the ceiling joists to the top thereof may be lined with metal in the same manner as is required for the weather side of such vent shaft.

Every opening from any vent shaft into the building or any window therein shall be equipped in the same manner as required by this act for elevator shafts in the same class of building.

Plaster on the weather side of any such shaft shall be cement plaster.

Every vent shaft required by this act shall be not less than four feet in any direction and be at least sixteen square feet in area. If such vent shaft exceeds fifty feet in height, measured from the bottom to the top of the walls of such shaft, then such vent shaft shall throughout its entire height be increased in area three square feet for each additional ten feet or fractional part thereof above fifty feet.

Every such vent shaft shall be provided with an air intake or duct at or near the bottom thereof, communicating with the street or yard or a court. Such intake shall be not less than three square feet in total area, and may be divided into not more than three separate ducts running between the joists or otherwise, and shall in all cases be placed as nearly horizontal as possible. Every such intake or duct shall be constructed of approved fireproof material or shall be of metal or metal-lined, and be provided with a wire screen of not less than one inch mesh

at each end. Plumbing, gas, steam or other similar pipes may be placed in such a vent shaft.

Every vent shaft shall have a door or a window at or near the bottom of the shaft, so arranged as to permit of its being readily cleaned out.

§ 58. **Walls of inner court.** The walls of every inner court in a fireproof hotel hereafter erected shall be constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard, incombustible material. In a semi-fireproof or in a wooden hotel such inner court walls, if surrounded on four sides by the walls of the same building, shall be constructed as provided for fireproof hotels, or may be of wood studs with wood firestops the same size as the studs, cut in between the studs at each floor and halfway between each floor, lathed on both sides with metal lath, or with an approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board. Plaster on the weather side of such inner court walls shall be cement plaster, or such inner court walls may be lined on the weather side with not less than number twenty-six (gauge) metal, in lieu of metal lath and plaster

§ 59. **Boiler-room. Doors in boiler-room.** In every hotel hereafter erected, every boiler used for the purpose of heating the building, using fuel other than gas, and every heating furnace or water-heating apparatus, using oil for fuel, shall be installed in a room, the walls of which room shall be built of concrete, reinforced concrete, brick, stone or terra cotta tile, not less than six inches thick, and such walls shall extend from the floor of the boiler-room to the ceiling over same. The entire ceiling of such room shall be built of similar materials as the walls, or shall be built with a double ceiling, with a space of not less than seven-eighths inch between the two ceilings, each ceiling shall be metal lathed or lathed with an approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board. The floor of a boiler-room shall be of concrete not less than two inches thick.

Any door in the wall of such room shall be a fire-resisting door, constructed of three thicknesses of seven-eighths inch by not more than six inches, tongued and grooved, matched, redwood boards entirely covered on the sides and edges with lock-jointed tin; every such door shall be self-closing, so hung as to overlap the walls of the room at least three inches, and any glass in any such door or any glass in any window or opening in the walls of a boiler-room shall be wired glass, not less than one-fourth inch thick, set in a metal or metal-covered sash.

All such doors shall have hinges, hangers, latches and other hardware of wrought iron, bolted to the doors, and shall have steel tracks, when sliding doors are used, with wrought-iron stops and binders bolted through the wall. Swinging doors shall have wall eyes of wrought-iron, built into or bolted through the wall.

Every such boiler-room shall have a sill across each door not less than four inches high. Such sills shall be of masonry, and the doors shall overlap same at least three inches, or in lieu of a masonry sill a steel or iron sill may be used, in which case the door shall close tight on top of same.

Where oil or other fluid fuel is burned, the oil or other fluid fuel shall not be fed by a gravity flow.

§ 60. **Garage.** In every hotel hereafter erected any portion of such building in which there is kept or stored any automobile or automobiles shall be a room inclosed in partitions which shall be built of concrete, reinforced concrete, brick, stone or terra cotta tile, not less than six inches thick. Such inclosing partitions shall extend from the floor of the room to the ceiling of the same. The entire ceiling of such room shall be built of material similar to that in the construction of its walls or shall be either metal lathed or be lathed with an approved plaster board and be well plastered, and if any portion of the building is used as a public automobile garage, or automobile repair-shop, or machine-shop the ceiling thereof shall be constructed either of masonry, or of a double ceiling metal lathed or lathed with an approved plaster board and be well plastered, there shall be left a space between the ceilings of not less than six inches measured vertically. The lower ceiling shall be suspended with iron or steel channels. In each case each of the ceilings shall be plastered not less than three-quarters of an inch thick including the lath or the plaster board. The floor of such room shall be of concrete not less than two inches thick. Every door, window or other opening in the walls of such room opening to the interior of the building shall be protected in the same manner required by section fifty-nine hereof for doors, windows and other openings in a boiler-room.

§ 61. **Fan exhaust system of ventilation. Penalty for failure to maintain.** In every hotel hereafter erected the water-closet compartments, bath, toilet or slop-sink rooms, kitchens, sculleries, pantries or other rooms in which food is stored or prepared, public dining-rooms, laundries, barber-shops, Turkish baths, general amusement, entertainment or reception-rooms, and rooms used for similar purposes and general utility rooms, in lieu of being provided with windows, as in this act prescribed, may be provided with a fan exhaust system of ventilation. Such fan exhaust system of ventilation shall consist of independent inlet ducts extending from the outer air to each such room or compartment and exhaust ducts extending from each such room or compartment to the outer air above the highest roof of the building.

All of the inlet ducts and exhaust ducts shall be constructed of galvanized iron or other smooth surfaced, nonabsorbent material and so arranged that they may be readily cleaned out.

The exhaust ducts shall always be connected to an exhaust fan mechanically operated, so designated and operated as to provide a complete change of air in not to exceed fifteen minutes for each room used for the following purposes: kitchens; pantries or other rooms used for cooking, storing or preparing of food; barber-shops; Turkish baths, laundries.

General amusement, entertainment, reception or dining rooms, or rooms used for similar purposes; general utility rooms; and the said fan exhaust system of ventilation shall be so designed and operated as to provide a complete change of air in not to exceed five minutes for each

room used for the following purposes: water-closets; shower compartments; bath, toilet or slop-sink rooms or sculleries.

Any person in charge of a building in which a system of fan exhaust ventilation, as in this section is required, who fails, neglects or refuses to operate and maintain the said system of ventilation in good order and repair so that the ventilation (complete change of air) herein specified is provided in each of the rooms or compartments at all times, shall be deemed guilty of a misdemeanor and subject to all of the penalties fixed by this act.

§ 62. **Dormitory.** Every dormitory hereafter constructed, altered, or converted in any hotel shall be as follows:

(a) In no one dormitory shall there be provided sleeping accommodations for more than twenty adult persons, nor shall the superficial floor space for each person be less than required by section sixty-five hereof.

(b) The ceiling height, measured from the finished floor to the finished ceiling, shall in no case be less than nine feet in the clear, and in no case shall there be permitted in such dormitory more than one tier of beds; provided, however, that in a dormitory in which the clear ceiling height is not less than eighteen feet measured between the finished floor to the finished ceiling thereof, a double tier of beds may be permitted, i. e., one tier above the other; provided, that in no event shall there be less than three feet of clear vertical space between the beds, nor less than three feet in any horizontal direction between any of the beds, nor less than one foot of clear space between the floor of the room and the under side of the first tier of beds.

(c) In every dormitory there shall be provided windows opening on to a street, or on to a yard or court of the dimensions specified in this act and located on the same lot. The window area shall in no case be less than one-eighth of the superficial floor area in the dormitory, and in the event that a double tier of beds are provided, the said window area shall be doubled.

(d) The frames of beds in every dormitory shall be made of steel or iron or of some similar hard, smooth, incombustible and nonabsorbent material.

(e) In every dormitory there shall be provided not less than one water-closet in a separate compartment, not less than one urinal in a separate compartment, and not less than one shower in a separate compartment, and not less than one wash-sink, for each twenty persons or fractional part thereof occupying the said dormitory.

(f) Every dormitory in a hotel erected prior to the passage of this act shall be made to conform to the provisions of subsection "(a)" of this section.

§ 63. **Hotels erected prior to passage of act.** In any hotel erected prior to the passage of this act, every additional room or hallway that is hereafter constructed or created may be of the same height as the other rooms or hallways on the same story of such hotel.

§ 64. **Windows, courts, etc., in hotels already erected.** Every room in a hotel erected prior to the passage of this act shall, if the said room

be hereafter occupied for living or sleeping purposes, have a window of an area not less than eight square feet, opening directly upon a street, a yard, a court or upon a vent shaft not less than twenty-five square feet in area, which vent shaft shall in no part be less than four feet wide and open and obstructed, without roof or skylight over same; except that if such room be located on the top floor of the building, such room may be ventilated by a skylight with fixed louvres directly to the outer air, or may have a window opening upon a vent shaft not less than ten square feet in area, if such window from the room be not more than three feet below the top of the wall of such vent shaft.

Every public hallway in every hotel erected prior to the passage of this act, which does not conform to the provisions for public hallways in buildings hereafter erected, shall be provided with light and ventilation to the outer air. Such light and ventilation shall be provided by the placing of windows or skylights, or by making such alterations as in the judgment of the housing department may be deemed necessary to accomplish the result.

§ 65. **Kitchen. Sleeping in cellar, etc. Floor space for each occupant.** Food shall not be cooked or prepared in any room except in a kitchen designed for that purpose. Floors of kitchens and rooms in which food is stored shall be made impervious to rats by a layer of concrete not less than one and one-half inches thick or by a layer of sheet tin or iron or similar material.

It shall be unlawful for any person to live or sleep, or permit or suffer any person to live or sleep, in any cellar, bath, shower or slop-sink room, water-closet compartment, hallway, closet, kitchen, recess from a room, or dressing-room, except when such recess from a room, or dressing room has at least ninety square feet of superficial floor area and complies with every requirement of this act for rooms, or in any other place in such building, which in the judgment of the department charged with the enforcement of this act, would be dangerous or prejudicial to life or health by reason of want of light, windows, ventilation, drainage or on account of dampness, offensive, obnoxious or poisonous odors, or in any room that shall be so overcrowded as to afford less than the following floor space for each occupant, in accordance with the age of said occupant:

Number of persons over 12 years of age	Number of persons under 12 years of age	Superficial floor area required
1 or	2	60 square feet
2 or	4	120 square feet
3 or	6	180 square feet
4 or	8	240 square feet
5 or	10	300 square feet
6 or	12	360 square feet

Additional floor area in the same ratio shall be provided for additional persons.

§ 66. **Lighting of hallway, etc.** In every hotel there shall be installed and kept burning from sunrise to sunset throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, passageway, public water-closet compartment, or toilet-room, whenever there is insufficient natural light to permit a person to read in any part thereof.

In every hotel there shall be installed and kept burning from sunset to sunrise throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, public water-closet compartment, or toilet-room and exterior passageway on the lot.

§ 67. **Light-colored material on walls.** The walls and ceilings of every sleeping-room in every hotel shall, except when there is sufficient natural light to permit a person to read in any part thereof during daytime, be calcimined or painted or papered with a light-colored material, and such calcimine, paint or paper, as the case may be, shall be renewed as often as is necessary to maintain the same of a light color and clean and free from vermin.

The walls of courts and shafts, unless built of light-colored materials, shall be painted of a light color or whitewashed, and such painting or whitewashing shall be renewed as often as is necessary to maintain the same of a light color.

§ 68. **Repapering.** No wall, partition or ceiling of any room in any hotel shall be repapered, calcimined, or have any other covering placed thereupon unless the old wall paper or other covering shall have first been removed therefrom, and the said wall, partition or ceiling cleaned, disinfected and freed from bugs, insects or vermin.

§ 69. **Repairs.** Every hotel shall be maintained in good repair. The roofs shall be kept waterproof and all storm or casual water properly drained and conveyed therefrom to the street sewer, storm drain or street gutter.

All portions of the lot about such hotel, including the yards, courts, areaways, vent shafts and passageways, shall be properly graded and drained; and whenever the department charged with the enforcement of this act deems it necessary for the protection of the health of the occupants of such building, or for the proper sanitation of the premises, it may require that the said lot, yards, courts, areaways, vent shafts and passageways be graveled or properly paved and surfaced with concrete, asphalt or similar materials.

§ 70. **Metal mosquito screening.** There shall be provided, whenever it is deemed necessary for the health of the occupants of any hotel or for the proper sanitation or cleanliness of any such building, metal mosquito screening of at least sixteen mesh, set in tight-fitting removable sash, for each exterior door, window or other opening in the exterior walls of the building.

§ 71. **Garbage cans.** In every hotel there shall be provided such number of tight metal receptacles with close-fitting metal covers for

garbage, refuse, ashes and rubbish as may be deemed necessary by the department charged with the enforcement of this act, or in lieu of such metal receptacles there may be constructed a garbage chute or shaft approved by the housing department. Each of said receptacles, chutes or shafts shall be kept in a clean condition by the person in charge or in control of the building.

§ 72. **Rooms, etc., to be kept clean. Swill, etc., not to be deposited in plumbing fixtures.** Every room, hallway, passageway, stairway, wall, partition, ceiling, floor, skylight, glass window, door, carpet, rug, matting, window curtain, water-closet compartment or room, toilet-room, bath-room, slop-sink or washroom, plumbing fixture, drain, roof, closet, cellar, or basement in any hotel or on the lot, yard, court or any of the premises thereof, shall be kept in every part clean and sanitary and free from all accumulation of debris, filth, rubbish, garbage or other offensive matter.

No person shall, or cause or permit any person to deposit any swill, garbage, bottles, ashes, cans or other improper substance in any water-closet, sink, slop-hopper, bath-tub, shower, catch-basin, or in any plumbing fixture connection or drain therefrom; or otherwise to obstruct the same; or to place or cause to permit to be placed any filth, urine or other foul matter in any place other than the place provided for same; or to keep or cause or permit to be kept any urine or filth or foul matter in any room in any hotel, or in or about the said building or premises thereof, for such length of time as to create a nuisance.

§ 73. **Beds kept clean.** In every hotel, every part of every bed, including the mattress, sheets, blankets and bedding, shall be kept in a clean, dry and sanitary condition, free from filth, urine or other foul matter, in or upon the same; and free from the infection of lice, bedbugs or other insects. No roller or public towels shall be permitted. Bed linen shall be changed at least as often as a new guest occupies the bed.

§ 74. **Dangerous articles not to be kept.** In no hotel, or any part thereof, or in the lot, yard, court or any portion thereof, shall there be kept, stored or handled any article dangerous or detrimental to life or to the health of the occupants thereof; nor shall there be stored, kept or handled any feed, hay, straw, excelsior, cotton, paper stock, rags or junk, except upon a written permit so to do, obtained from the fire commissioner or other department authorized to issue such permit. Every such permit shall be deemed to be a public record, made in duplicate and a copy thereof shall remain on file in the office of the fire commissioner or department issuing same.

§ 75. **Animals not to be kept.** No horse, cow, calf, swine, sheep, goat, rabbit, mule or other animal, chicken, pigeon, goose, duck or other poultry shall be kept in a hotel, or any part thereof; nor shall any such animal or poultry, nor shall any stable be kept or maintained in the same lot, yard, court or premises of a hotel, or within twenty feet of any window or door of such building.

No hotel shall be connected with or have any door, window or transom opening to any part of a building wherein paint or oil are stored or kept for the purpose of sale or otherwise.

§ 76. **Housekeeper in charge.** In every hotel in which there are eight or more guest rooms and in which the owner does not live, there shall be a janitor, housekeeper or other responsible person, who shall reside in such hotel or on the same lot or premises thereof and have charge of same.

§ 77. **Action to abate nuisance. Authority to execute order.** In case any hotel, or any part thereof, is constructed, altered, converted or maintained in violation of any provisions of this act or of any order or notice of the department charged with its enforcement, or in case a nuisance exists in any such hotel or building or structure or upon the lot on which it is situated, said department may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or nuisance, to prevent the occupation of said hotel, building or structure, to prevent any illegal act, conduct of business in or about such hotel or lot. In any such action or proceeding said department may, by affidavit setting forth the facts, apply to the superior court, or to any judge thereof, for an order granting the relief for which said action or proceeding is brought, or for an order enjoining all persons from doing or permitting to be done any work in or about such hotel, building, structure or lot, or from occupying or using the same for any purpose, until the entry of final judgment or order. In case any notice or order issued by said department is not complied with, said department may apply to the superior court, or to any judge thereof, for an order authorizing said department to execute and carry out the provisions of said notice or order, to remove any violation specified in said order or notice, or to abate any nuisance in or about such hotel, building or structure, or the lot upon which it is situated. The court, or any judge thereof, is hereby authorized to make any order specified in this section. In no case shall the said department or any officer thereof or the municipal corporation be liable for costs in any action or proceeding that may be commenced in pursuance of this act.

§ 78. **Fine a lien.** Every fine imposed by judgment under section six of this act upon a hotel owner shall be a lien upon the house in relation to which the fine is imposed, from the time of the filing of a certified copy of said judgment in the office of the recorder of the county in which said hotel is situated, subject only to taxes and assessments and water rates, and to such mortgage and mechanics' liens as may exist thereon prior to such filing; and it shall be the duty of the department charged with the enforcement of the provisions of this act, upon the entry of such judgment, to file forthwith the copy as aforesaid, and such copy upon filing shall be forthwith indexed by the recorder in the index of mechanics' liens.

§ 79. **Notice of pendency of action.** In any action or proceeding instituted by the department charged with the enforcement of this

act, the plaintiff or petitioner may file, in the county recorder's office of the county where the property affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Said notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards before final judgment or order, or at any time after the service of any notice or order issued by said department. Such notice shall have the same force and effect as the notice of pendency of action provided for in the Code of Civil Procedure. Each county recorder with whom such notice is filed shall record it and shall index it in the name of each person specified in a direction subscribed by an officer of the department instituting such action or proceeding. Any such notice may be vacated upon the order of a judge of the court in which such action or proceeding was instituted or is pending. The recorder of the county where such notice is filed is hereby directed to mark such notice and any record or docket thereof as canceled of record, upon the presentation and filing of a certified copy of such order.

§ 80. **Name of owner, etc., filed.** Every owner of a hotel and every lessee or other person having control of a hotel, shall file in the housing department a notice, containing his name and address, and also a description of the property, by street and number and otherwise, as the case may be, in such manner as will enable the department charged with the enforcement of this act easily to find the same; and also the number of rooms in the building. In case of a transfer of any hotel, it shall be the duty of the grantee of said hotel to file in the housing department a notice of such transfer, stating the name of the new owner, within thirty days after such transfer. In case of the devolution of the said property by will, it shall be the duty of the executor and the devisee, if more than twenty-one years of age, and in case of devolution of such property by inheritance without a will, it shall be the duty of the heirs, or in case all the heirs are under age, it shall be the duty of the administrator of the deceased owner of said property, to file in said department a notice, stating the death of said owner and the names of those who have succeeded to his interests, within thirty days after the death of the decedent, in case he died intestate, and within thirty days after the probate of his will if he died testate.

§ 81. **Name of agent filed.** Every owner, agent or lessee of a hotel shall file in the housing department a notice containing the name and address of such agent of such house, for the purpose of receiving service of process, and also a description of the property, by street and number or otherwise, as the case may be, in such manner as will enable the department charged with the enforcement of this act easily to find the same. The name of the owner or lessee may be filed as agent for this purpose.

§ 82. **Index of names.** The names and addresses filed in accordance with sections seventy-nine and eighty shall be indexed by the housing department in such a manner that all of those filed in rela-

tion to each hotel shall be together and readily ascertainable. Said indices shall be public records, open to public inspection during business hours.

§ 83. **Time of service.** Every notice or order in relation to a hotel shall be served five days before the time for doing the thing in relation to which it shall have been issued.

§ 84. **Manner of service.** In any action brought by any department charged with the enforcement of this act in relation to a hotel for injunction, vacation of the premises or other abatement of nuisance, or to establish a lien thereon, it shall be sufficient service of summons to serve the same as notices and orders are served under the provisions of the Code of Civil Procedure.

§ 85. **Minimum requirements. Supplementary. Repealed. Powers of cities not abrogated.** The provisions of this act shall be held to be the minimum requirements adopted for the protection, the health and the safety of the community, and for the protection, the health and the safety of the occupants of hotels. Nothing in this act contained shall be construed as prohibiting the local legislative body of any incorporated town, incorporated city, incorporated city and county, or county, from enacting from time to time, supplementary ordinances or laws imposing further restrictions, or providing for fees to be charged for permits, certificates or other papers required by this act; but no ordinance, law, regulation or ruling of any municipal department, authority, officer or officers, shall repeal, amend, modify or dispense with any of the provisions of this act.

All statutes of the state and all ordinances of incorporated towns, incorporated cities, incorporated cities and counties, and counties, as far as inconsistent with the provisions of this act, are hereby repealed; provided, that nothing in this act contained shall be construed as repealing or abrogating any present ordinance or law of any incorporated town, incorporated city, incorporated city and county, or county, in the state which further restricts the percentage of the lot to be covered by a hotel, the number of stories or height of such hotel or number of rooms therein, the occupation thereof, the materials to be used in its construction, or increasing the size of the yards or courts, the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

Nothing in this act contained shall be construed as abrogating diminishing, minimizing or denying the power of any incorporated town in corporated city, incorporated city and county, or county, by ordinance or law, to further restrict the percentage of the lot to be covered by a hotel within said municipality, the number of stories or height of such hotel or number of rooms therein, the occupation thereof, the materials to be used in its construction, or increasing the size of the yards or courts, the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

§ 86. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such

decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 87. **In effect when.** This act shall take effect and be in force from and after September 1, 1917.

§ 88. **Repealed.** "An act to regulate the building and occupancy of hotels and lodging-houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof," approved June 16, 1913, Statutes of California of 1913, page 1429, and all acts amending said act, are hereby repealed.

ACT 1531.

An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, repealing all acts or parts of acts in conflict with this act, providing for its enforcement by the state board of health and providing a penalty for the violation of any of its provisions. [Approved April 26, 1915. Stats. 1915, p. 213.]

Repealed 1917; Stats. 1917, p. 432. See next Act.

ACT 1532.

An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, providing for its enforcement by the state board of health and local health officers, prescribing a penalty for the violation of the provisions hereof; and repealing an act entitled "An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, repealing all acts or parts of acts in conflict with this act, providing for its enforcement by the state board of health, and providing a penalty for the violation of any of its provisions," approved April 26, 1915.

[Approved May 11, 1917. Stats. 1917, p. 432. In effect July 27, 1917.]

§ 1. **Hotel defined.** Every building or structure, kept as, used as, maintained as, or advertised as, or held out to the public to be, a place where sleeping or rooming accommodations are furnished to the public, or any part of the public, whether with or without meals, shall, for the purpose of this act, be deemed to be a hotel, and whenever the word "hotel" shall occur in this act, it shall be deemed to include lodging-house and rooming-house.

§ 2. **Clean bedding, etc.** All bedding, bedclothes, or bedcovering, including mattresses, quilts, blankets, sheets, pillows or comforters, used in any hotel in this state must be kept clean and free from all filth or dirt; provided, that no bedding, bedclothes or bedcovering, including mattresses, quilts, blankets, sheets, pillows or comforters, shall be used which is worn out or unfit for use by human beings according to the true intent and meaning of this act.

§ 3. **Infected rooms fumigated.** Any room in any hotel in this state which is or shall be infected with vermin or bedbugs or similar things, shall be thoroughly fumigated, disinfected and renovated until such vermin or bedbugs or other similar things are entirely exterminated.

§ 4. **Clean rooms.** Every room in any hotel in this state used for sleeping purposes, must be kept free from any and every kind of dirt or filth of whatsoever nature, and the walls, floors, ceilings and doors of every such room shall be kept free from dirt.

§ 5. **Ventilation devices.** Every room in any hotel, used for sleeping purposes, shall have devices, such as a window or transom, so constructed as to allow for proper and a sufficient amount of ventilation in each such room.

§ 6. **Size of sheets.** Every bed, for the accommodation of any person or persons or guests, kept or used in any hotel in this state, must be provided with a sufficient supply of clean bedding and must be provided with sheets at least eighty-one inches wide and ninety-eight inches long; provided, however, that on every single bed there shall be sheets at least fifty inches wide and ninety-eight inches long. Every bed shall be supplied with clean sheets and pillow slips as often as assigned to a different person.

§ 7. **Individual towels.** Every hotel, within this state, having a public washstand or washbowl, where different persons gather to wash themselves, must keep a sufficient supply of clean individual towels for the use of such persons within easy access of or to such persons and in plain sight and view.

§ 8. **Penalty for violation.** Every owner, manager, lessee or other person in charge of any hotel in this state who shall fail to comply with this act whether through the acts of his agents or employees, or otherwise, shall be guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars or shall be imprisoned for not more than three months; and every day that any hotel shall be kept in violation of any of the provisions of this act such keeping shall constitute a separate offense.

§ 9. **Enforcement.** It shall be the duty of the state board of health and local health officers to enforce the provisions of this act.

§ 10. **Other than hotels.** Nothing in this act shall be construed to include cots or bunks where the same are used in places other than in hotels.

§ 11. **Stats. 1915, p. 213, repealed.** An act of the legislature entitled "An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, repealing all acts or parts of acts in conflict with this act, providing for its enforcement by the state board of health, and providing a penalty for the violation of any of its provisions," approved April 26, 1915, is hereby repealed.

TITLE 242.

HOURS OF LABOR.

ACT 1537.

An act limiting the hours of labor of females employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company; compelling each employer in any manufacturing, mechanical, or mercantile establishment, laundry, hotel or restaurant, or other establishment employing any female to provide suitable seats for all female employees and to permit them to use such seats when they are not engaged in the active duties of their employment; and providing a penalty for failure, neglect, or refusal of the employer to comply with the provisions of this act, and for permitting or suffering any overseer, superintendent, foreman or other agent of any such employer to violate the provisions or this act.

[Approved March 22, 1911. Stats. 1911, p. 437.]

Amended 1913, p. 713; 1917, p. 828.

The amendment of 1917 follows:

§ 1. **Females not to work more than eight hours per day. Not applicable to nurses, fruit-canning, etc.** No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, public lodging-house, apartment house, hopital, place of amusement, or restaurant or telegraph or telephone establishment or office, or by any express or transportation company in this state more than eight hours during any one day or more than forty-eight hours in one week. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours of one day, or forty-eight hours during any one week; provided, however, that the provisions of this section in relation to hours of employment shall not apply to or affect graduate nurses in hospitals, nor the harvesting, curing, canning or drying of any variety of perishable fruit, fish or vegetable during such periods as may be necessary to harvest, cure, can or dry said fruit, fish or vegetable in order to save the same from spoiling. [Amendment approved May 23, 1917; Stats. 1917, p. 828.]

TITLE 249.

IMMIGRATION.

ACT 1589.

An act relating to immigrants and immigration, creating a commission of immigration and housing, providing for the employment by said

commission of a secretary, agents and other employees, authorizing said commission to fix their compensation, prescribing the duties of said commission, providing for the investigation by said commission of all things affecting immigrants, and for the care, protection and welfare of immigrants, and making an appropriation for the purpose of carrying out the provisions hereof.

[Approved June 12, 1913. Stats. 1913, p. 608.]

Amended 1915, p. 848; 1917, p. 1514.

The amendment of 1917 follows:

§ 15. **Immigration and housing commission to promote city planning.** The commission may make investigations of the housing of immigrants and working people and of city planning in California and elsewhere, may encourage the creation of local city planning commissions and may furnish information as to the progress of other cities for the use of such commissions. It may investigate and report upon defective housing and the evils resulting therefrom and the work being done to remedy the same in California and elsewhere. It may make studies of the operation and enforcement of building and tenement house laws, of housing finances and taxes, of zoning and districting regulations and may promote the formation of organizations intended to increase the supply of wholesome homes for the people, and aid in the enforcement of any laws enacted to promote the purposes for which the commission is established. [New section added May 31, 1917; Stats. 1917, p. 1514.]

§ 16. **Annual report of city planning commissions. Conference. City planners.** It shall be the duty of each and every city-planning commission or housing commission of any incorporated city or town in the state of California to file on the first day of June of each year with the secretary of the commission of immigration and housing of California a complete report of its transactions and recommendations to any municipal organization or private person or corporation during the previous year, and particularly to report any conflict in authority, lack of co-operation with local municipal authorities or with adjoining cities, with recommendations for needed legislation to properly carry on the development of their housing and city-planning work. The commission may annually, or oftener, call a conference of representatives of these commissions, of local health officers, housing inspectors, building inspectors or such other municipal officers as it shall deem advisable to carry out the purposes of this act. The commission may employ city planners and other persons whose salaries, wages and other necessary expenses of the commission will be provided for out of the funds at the disposal of the commission. [New section added May 31, 1917; Stats. 1917, p. 1515.]

§ 17. **Annual report. Information furnished.** The commission may make an annual report on housing and city planning to the governor, which the state printer shall cause to be printed as a public document, and copies of this report shall be filed with each and every local housing and city-planning commission in the state of California. The commission is further authorized to furnish information and suggestions from time to time to city governments, housing and city planning commis-

sions and other public, semi-public or private bodies such as may, in its judgment, tend to promote the purposes for which the commission is established. [New section added May 31, 1917; Stats. 1917, p. 1515.]

TITLE 254.

INFANTS.

ACT 1611.

An act regulating the employment and hours of labor of children—prohibiting the employment of minors under certain ages—prohibiting the employment of certain illiterate minors—providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof.

[Approved February 20, 1905. Stats. 1905, p. 11.]

Amended 1907, pp. 598, 978; 1909, pp. 211, 387; 1911, pp. 282, 910; 1913, p. 364; 1915, p. 1201; 1917, p. 826.

The amendment of 1917 follows:

§ 14. Agricultural, etc., labor. Theatrical employment. Consent of labor commissioner. Nothing in this act shall be construed to prohibit the employment of minors sixteen years of age or over at agricultural, horticultural, or viticultural, or domestic labor. Nor shall anything in this act be construed to prohibit the employment of minors at agricultural, horticultural, or viticultural, or domestic labor, during the time the public schools are not in session, or during other than school hours. For the purpose of this act, horticultural shall be understood to include the curing and drying, but not the canning of all varieties of fruit. Nor shall anything in this act be construed to prohibit any minor between the ages of fifteen and eighteen years, who is by any statute or statutes of the state of California, now or hereafter in force, permitted to be employed as an actor, or actress, or performer in a theater, or other place of amusement, previous to the hour of ten o'clock P. M., in the presentation of a performance, play or drama, continuing from an earlier hour till after the hour of ten o'clock P. M. from performing his or her part in such presentation as such employee between the hours of ten and twelve o'clock P. M.; provided, the written consent of the commissioner of the bureau of labor statistics is first obtained. Nor shall anything in this act prevent, or be construed to prohibit, the employment of any minor, whether resident or nonresident, in the presentation of a drama, play, performance, concert or entertainment, with the written consent of the commissioner of the bureau of labor statistics, but no such consent shall be given unless the officer giving it is satisfied that the environment in which the drama, play, performance, concert or entertainment is to be produced is a proper environment for the minor, and that the conditions of such employment are not detrimental to the health of such minor, and that the minor's education will not be neglected or hampered by its participation in such drama, play, performance, concert or entertainment, and the commissioner may require the person charged with the issuance of age and schooling certificates to make the necessary investigation into such conditions; and every such written consent shall

specify the name and age of the minor together with such other facts as may be necessary for the proper identification of such minor, and the dates when, and the theaters or other places of amusement in which such drama, play, performance, concert or entertainment is to be produced, and shall specify the drama, play, performance, concert or entertainment in which the minor is permitted to participate, and every such consent shall be revocable at the will of the officer giving it. Dramas and plays shall include the production of motion picture plays. [Amendment approved May 22, 1917; State, 1917, p. 826.]

TITLE 255.

INITIATIVE AND REFERENDUM.

ACT 1624.

An act to provide for direct legislation by cities and towns, including initiative and referendum.

[Approved January 2, 1912. Stats. Ex. Sess. 1911, p. 131.]

Amended 1915, p. 319; 1917, p. 655.

The amendment of 1917 follows:

§ 2. **Not applicable to street proceedings.** This act is not intended to apply to those cities having a freeholders' charter adopted and ratified under the provisions of section eight of article eleven of the constitution and having in such charter provision for the direct initiation of ordinances by the electors; nor to proceedings had for the improvement of streets in or rights of way owned by municipalities, the opening or closing of streets, the changing of grades or the doing of other work, the cost of which or any portion of which is to be borne by special assessments upon real property. [Amendment approved May 17, 1917; Stats. 1917, p. 655.]

TITLE 256.

INSANE.

ACT 1635b.

An act providing for the removal of bodies from the cemetery at the Stockton State Hospital and the disposition thereof, and making an appropriation therefor.

[Approved June 1, 1917. Stats. 1917, p. 1661. In effect July 31, 1917.]

§ 1. **Appropriation: Removal of bodies Stockton State Hospital.** Out of any money in the state treasury not otherwise appropriated the sum of five thousand dollars is hereby appropriated, to be expended in accordance with law in the removal of bodies from the cemetery at the Stockton State Hospital and in the disposition thereof incident to such removal.

ACT 1648.

An act to establish an institution for the care, confinement and instruction of feeble-minded and epileptic persons; to provide for the government and maintenance thereof, and for the study of mental

deficiency and related problems; to provide for admission and commitment to such institution, and to prescribe penalties for unlawfully or improperly contriving to have persons adjudged feeble-minded under this act; to provide for the sterilization of inmates of such institutions; to prescribe penalties for procuring the escape, or aiding or advising in the escape, of inmates, or concealing inmates thereof; to provide a contingent fund for the use of such institution and to make an appropriation therefor.

[Approved June 1, 1917. Stats. 1917, p. 1623.]

§ 1. **Pacific Colony created.** There is hereby created an institution to be known as the Pacific Colony and which is hereby declared to be a corporation.

§ 2. **Board of trustees.** The said institution shall be under the control of a board of three trustees, to be appointed by the governor, one for one year, one for two years, and one for three years, and thereafter for terms of four years each, to hold office until their successors are respectively appointed and qualified. The governor shall fill vacancies occurring from any cause in the membership of such board, and the first board shall be appointed within thirty days after this act takes effect.

§ 3. **Chairman.** The said trustees shall annually elect from their own number a chairman and a vice-chairman, whose terms of office shall be one year and until their successors shall be duly appointed and qualified.

§ 4. **By-laws.** The board of trustees may, from time to time, establish such by-laws, rules and regulations, not inconsistent with the laws of the state, as they may deem expedient for the efficient management and government of the said institution, for the transaction of its business and the holding of its meetings.

§ 5. **Vacancy.** If any trustee fail, for three months, to attend the regular meetings of the board, unless he is ill or absent from the state, his office shall become vacant, if the board, by resolution, so declare. A copy of any such resolution, certified by the secretary of the board, must thereupon be forthwith transmitted to the governor.

§ 6. **Compensation.** The trustees shall be entitled to receive as compensation for their services, while in the actual discharge of their duties as such trustees, ten dollars per day each; provided, that the total thereof shall not exceed two hundred forty dollars in any one year for any trustee; and provided, that if such services be performed on two or more consecutive days, there shall in such case be remuneration paid for one day only; and provided, also, that the trustees shall be entitled to receive, in addition to such compensation, all of their necessary expenses while attending to the business of the institution.

§ 7. **Superintendent. Secretary.** The board of trustees shall appoint a superintendent, not of their own number, who shall be a resident of the institution and shall have charge, management and control of the same and of its property, and shall have the charge, control, discipline

and training of its inmates, subject to the direction of the board of trustees; and he shall give a bond to the state in such sum and with such sureties as will be satisfactory to the state board of control, for the faithful performance of his duties. The board of trustees shall appoint a secretary who shall perform such duties as the board may direct. The superintendent may be appointed to that position.

§ 8. **Treasurer.** The superintendent shall, subject to the approval of the board of trustees, employ, with power to discharge, a treasurer and such other officers and employees as he may consider proper and necessary for the efficient carrying into effect of the design of the said institution, determine their titles, and prescribe their duties.

§ 9. **Duty of treasurer.** The treasurer shall receive and disburse all moneys and keep account of the same, under the direction of the board of trustees, but subject to such supervision or control as is vested by law in the state board of control, and he shall give a bond to the state in such sum and with such sureties as will be satisfactory to the state board of control for the faithful performance of his duties.

§ 10. **Compensation of officers.** The board of trustees shall fix the compensation of the superintendent, whose salary shall be not less than three hundred dollars per month, and the superintendent shall fix the compensation of the other officers and employees, subject to the approval of the board of trustees.

§ 11. **Purchase of site.** The board of trustees, together with the superintendent, are hereby empowered and instructed to purchase on behalf of the state, in the territory covered by and included within the counties of Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside and San Diego, for the use of the said institution, such a site as they may deem most advantageous, of preferably not less than eight hundred acres, subject to the approval of the state board of control as to the purchase price, and subject to such approval, the said board of trustees and superintendent may, if they consider it advisable, purchase water rights or make provision for the development of water for the use of said lands. The state department of engineering shall, at the request of the board of trustees, and with the approval of the state board of control, examine into the matter of water, light, power and sanitation, and the engineering problems involved, in connection with any site or sites the board may investigate with a view to purchasing, and shall report thereon to the board of trustees, with special regard to the suitableness of such site or sites for the purposes of the institution.

The University of California shall, on the approval of the state board of control, render to the board of trustees such reasonable assistance as the board may desire, in determining the quality and character of the soil of such site or sites for agricultural, horticultural and other purposes, and its suitability for the purposes of the institution.

The said trustees and superintendent, the said state department of engineering, and the said university, shall be entitled to receive their necessary expenses in connection with said investigations and the selection and purchase of said site.

§ 12. **Buildings.** The board of trustees shall erect the buildings for said institution, subject to such supervision or control as is by law vested in the state department of engineering.

§ 13. **Equipment, etc.** The board of trustees is authorized and required to purchase such equipment, furniture, supplies and materials, as it may deem suitable for the proper completion and furnishing of the said buildings, and for the operation and maintenance of the said institution, subject to such supervision or control as is by law vested in the state board of control and the state purchasing agent.

§ 14. **Donations and bequests.** The said institution may take and hold in trust for the state any grant or devise of land, or any donation or bequest of money or other personal property, heretofore or hereafter granted, devised, donated, or bequeathed to the use of the institution, and shall dispose of the same in accordance with the wishes of the donor, or testator, if expressed, and if no condition be attached thereto, or in so far as any wishes expressed do not prevent, then to invest and reinvest the same, or to change the investment thereof, as to the board of trustees may seem best, and to use the income arising therefrom for the best interests of the institution.

§ 15. **Forms for admission of inmates.** The board of trustees shall prescribe and publish instructions and form, in relation to the commitment and admission of inmates, and may include in them such interrogatories to be answered as it may deem necessary or useful; which instructions and forms shall be furnished to anyone applying therefor, and shall also be sent in sufficient numbers to the county clerks of the several counties of the state.

§ 16. **Who are "feeble-minded."** The following persons, if not insane, shall be held to be "feeble-minded" within the meaning of this act:

(a) Those who are so mentally deficient that they are incapable of managing themselves and their affairs independently, with ordinary prudence, or of being taught to do so, and who require supervision, control, and care, for their own welfare, or for the welfare of others, or for the welfare of the community; or

(b) Those whose intelligence in the judgment of one or more psychologists, when they have been examined by such psychologist or psychologists making use of standardized psychological tests and whatever supplementary material may be available, will not develop beyond the level of the average child of twelve years.

§ 17. **Petition to superior court for order admitting person.** Whenever any parent, guardian or other person charged with the support of a supposedly feeble-minded person who is not insane, or an epileptic under twenty-one years of age, desires such person to be admitted into the said institution, he may petition the superior court of the county in which such person resides for an order admitting such person thereto; the petition shall disclose his reasons for supposing such person to be eligible for admission thereto, and shall be verified by the affidavit of the petitioner. Or whenever any peace officer desires any such supposedly feeble-minded or epileptic person to be so admitted, he may

petition the said court as aforesaid for an order therefor; provided, he shall have given two days previous written notice of the date of the presentation of the petition, personally or by United States mail, to such parent, guardian or other person charged with such support, if known to him, and if not so known, then to some other relative or friend, if any known to him, residing in the said county, an affidavit whereof, together with the names, addresses and relationship of the parties so notified, and the facts of his said knowledge or want of knowledge, shall be filed with the petition.

§ 18. **Warrant for arrest.** The court may cause a warrant to issue for the arrest and delivery to the court of such supposedly feeble-minded or epileptic person, whenever considered advisable or necessary, and have the same executed by any peace officer.

§ 19. **Examination of person. Order of commitment.** The judge of the said court must inquire into the condition or status of such supposedly feeble-minded or epileptic person, for which purpose he may by subpoena require the attendance before him of a clinical psychologist and a reputable physician, or one of each, or two of either, to examine such person and testify as to his or her mentality. Such physicians must have made a special study of mental deficiency and be qualified to act as "medical examiners." The said judge may also by subpoena require the attendance of such other persons to give evidence as he may deem advisable, and if the judge find such person to be a feeble-minded person, as defined by section sixteen of this act, or an epileptic person under twenty-one years of age, and that such person has been a resident of the state for at least one year next preceding the presentation of the petition, such judge may make an order of commitment to said institution, and on the presentation of such order the superintendent must receive such person therein; provided, that, in the opinion of the board of trustees, the condition of such person, the accommodation at the said institution, and the state of its finances, be such as to justify the receiving of such person. Pending the said investigation the said supposedly feeble-minded or epileptic person may be left in charge of the parent, guardian or other suitable person or in a detention home.

§ 20. **Order to pay expenses.** The judge shall attach to the order of commitment his findings and conclusions, together with all the social and other data he may have bearing upon the case, and the same shall be delivered to the said institution with such order. The judge must inquire into the financial condition of the parent, guardian or other person charged with the support of any such person, and if he find him able to do so, in whole or in part, he must make a further order, requiring him or her to pay, to the extent the judge may consider him or her able to pay, the expenses of the proceedings in connection with the investigation, detention and commitment of such person, and the expenses of the delivery thereof to the institution, and to pay to the institution, at stated periods, such sums as, in the opinion of the judge, are proper, during such time as the person may remain in the institution. This order may be enforced by such further orders as the judge deems necessary, and may be varied, altered or revoked in his discretion.

§ 21. **Petitioner to pay, when.** In case of the dismissal of the said petitioner, the judge may, if he considers the petition to have been filed with malicious intent, order the petitioner to pay the expenses in connection therewith, and may enforce the same by such further orders as he may deem necessary.

§ 22. **Penalty.** Any one who shall knowingly contrive to have any person adjudged feeble-minded under this act, unlawfully or improperly, shall be deemed guilty of a misdemeanor.

§ 23. **Feeble-minded boy or girl before juvenile court.** When a boy or girl is brought before a juvenile court under the juvenile court law, if it appear to the court, either before or after adjudication, that such person is feeble-minded within the meaning of this act; or if on the conviction of any person of crime by any court it appear to the court that such person is feeble-minded as aforesaid, the court may adjourn the proceedings or suspend the sentence, as the case may be, and direct some suitable person to take proceedings under this act against the person before the court, and the court may order that, pending the preparation, filing, and hearing of the petition, the person before the court be detained in a place of safety, or be placed under the guardianship of some suitable person, on his entering into a recognizance for the appearance of the person upon trial or under conviction when required. If upon the hearing of the petition, or upon a subsequent hearing under this act, the person upon trial or under conviction be not found to be feeble-minded, the court may proceed with the trial or impose sentence, as the case may be.

§ 24. **Persons admitted for observation.** The superintendent may admit to the Pacific Colony temporarily, without commitment, under such rules and regulations as the board of trustees may prescribe, for purposes of observation and testing, such persons, as are suspected of being feeble-minded, to acertain whether or not they are actually mentally defective, and proper cases for care, treatment and training in an institution for the feeble-minded, and if such is found to be the case, application may be made to the superior court for an order of commitment of such persons to such an institution. On presentation of an affidavit or affidavits of the facts upon which such opinion is based, the judge of the said court may make such order.

§ 25. **Witness fees.** Each psychologist and physician shall be entitled to receive for each attendance mentioned in section nineteen the sum of five dollars for each person examined, together with his necessary actual expenses occasioned thereby, and other witnesses shall be entitled to receive for such attendance such fees and expenses as the court in its discretion may allow, if any, not exceeding the fees and expenses allowed by law in other cases in the said courts.

§ 26. **Payment by county treasurer.** Any fees or traveling expenses payable to a psychologist, physician, or witness as aforesaid, and all expenses connected with the execution of any process under this act, which may not be paid by the parent, guardian or person charged

with the support of the said supposed feeble-minded or epileptic person, shall be paid by the county treasurer of the county in which such person resides, upon the presentation to the treasurer of a certificate of the said judge that the party is entitled thereto.

§ 27. **Transfer to or from state hospital for insane.** The said board of trustee, when it shall deem desirable, owing to the mental condition of an inmate of the Pacific Colony, may, with the approval of the state commission in lunacy, transfer such inmate to a state hospital for the insane, provided that on due investigation by such commission, the commission shall consider such inmate a fit subject therefor. And the said commission, whenever on due observation and investigation it shall consider a patient in any state hospital for the insane eligible for commitment to the Pacific Colony may with the approval of the said board of trustees, transfer such patient thereto, for care and treatment therein.

§ 28. **Transfer to or from Sonoma State Home.** Inmates of the Sonoma State Home may be transferred to the Pacific Colony, and inmates of the Pacific Colony may be transferred to the Sonoma State Home, at any time and from time to time as may be agreed upon by the boards of trustees of the two institutions, upon the application of the parent, guardian or other persons charged with the support of such inmate, provided he pay the expenses thereof, and may, with the approval of the state board of control, be so transferred without such application and without such payment, in which latter case the expenses thereof shall be paid by either or both of such institutions as may be determined by the state board of control.

§ 29. **Liability for support unchanged.** In the event of the transfer of any inmate or patient as provided in sections twenty-seven and twenty-eight of this act the liability of any estate, person or county for the care, support and maintenance of such person, shall be the same to the institution to which the person is transferred as it was to the institution from which the transfer is made.

§ 30. **Execution of writ of commitment.** It shall be the duty of the sheriff of any county wherein an order is made by the judge of the superior court committing any person to the Pacific Colony, or of any other person designated by the said judge, to execute the writ of commitment, and to receive as compensation therefor such fees as are now or may hereafter be provided by law for the transportation of prisoners to the state prison; provided, that in all cases the parent, guardian or other person charged with the support of such person may, at his option, with the approval of the said judge, and in all cases where he is able or the estate of such person is sufficient, shall, if the said judge approve, without expense to the county or state, execute said writ, after being duly sworn therefor, with like effect and with like powers as the sheriff would have; but no such person, being a female, shall be taken to the said colony by any male person not her husband, father, brother or son, without the attendance of some woman of good character and mature age, chosen for the pur-

pose by the judge, which woman shall, if the judge see fit, be paid therefor such reasonable remuneration as he may allow.

§ 31. **Payments by county.** For each person committed to the Pacific Colony there shall be paid by the county from which he is committed, to the state treasurer, the sum of fifteen dollars monthly, for and during each month or part of month such person so committed remains an inmate of the institution, in case the payments herein provided to be made by the parent, guardian or other person charged with the support of any such person should not be made, and to the extent they are not made, not exceeding fifteen dollars per month.

§ 32. **Statement by county auditor.** Each county auditor must include in his state settlement report, rendered to the controller in the months of May and December, the amount due under this act, by reason of commitment to the Pacific Colony, and the county treasurer, at the time of the settlement with the state in such months, must pay to the state treasurer, upon the order of the controller, the amounts found to be due by reason of the commitments herein referred to.

§ 33. **When others may be admitted.** Whenever the accommodations of the Pacific Colony permit, and if such action does not conflict with the interest or welfare of committed cases, the board of trustees, without judicial commitment, and upon such terms as may appear to said board to be to the best interests of the state, may admit to said institution epileptics, of any age, and also such other persons as are, under the provisions of this act, eligible for admission to said institution.

§ 34. **Transfer from state schools.** Any boy who has been or may hereafter be committed to the Preston School of Industry, or the Whittier State School, or any girl who has been or may hereafter be committed to the California School for Girls at Ventura, or to any similar institution now or hereafter created, who comes within the provisions of this act, may, on application to a judge of the superior court of the county in which such person may be located, by the superintendent of the institution to which he or she has been committed, be discharged from such last mentioned institution, and be recommitted, for an indeterminate period, to the Pacific Colony to the Sonoma State Home or to any similar institution hereafter created; provided, the findings of the judge and the opinion of the board of trustees of the institution to which such boy or girl is sought to be committed are the same as on the commitment to and receiving into the Pacific Colony of other persons as aforesaid; and provided, that there shall have been served upon such relatives of said boy or girl, or upon such other persons and in such manner as the said judge may deem necessary or proper, such notice of the application as he shall consider sufficient, in order to enable them to be heard on the application.

§ 35. **Object of colony.** The object aimed at in the Pacific Colony shall be such care and training of its inmates as to render them more

useful and happy, and tend to make them as nearly self-supporting as their level of intelligence may permit.

§ 36. **Manufacture of furniture, etc.** The Pacific Colony may manufacture or raise for sale, such articles of furniture, supplies or produce as may be used in the said or any other state institution, subject to the approval and under the control of the state board of control.

§ 37. **Disposition of funds.** All moneys received from the sale of articles of furniture, supplies or produce as provided in section thirty-six of this act shall be paid to the state treasurer, to be placed in the contingent fund to the credit of the said colony and for its use.

§ 38. **Department for clinical diagnois.** The Pacific Colony shall have a department for the clinical diagnosis of inmates, and their subsequent classification and observation, with a view to their proper segregation and treatment.

§ 39. **Examination of inmate before discharge.** The superintendent shall, at least two weeks before the discharge of any inmate, have made, by a trained clinical psychologist, an examination of the mental condition of such inmate, and a permanent record thereof shall be kept in the office of the superintendent; which record shall be open to the inspection of all state boards or commissioners authorized by law to investigate or inspect the institution.

§ 40. **Biennial report of superintendent.** The superintendent shall issue, at the end of each period of two years, a report of the work done during that period, giving the number of inmates received within that time, their sex, nativity, residence, date of reception, level of intelligence determined as aforesaid, and the results of the investigations that may have been made; such report shall also give the number of inmates discharged during that period, with the date and reason therefor, and the names of all paying inmates, the amounts charged for them, and the amounts received therefrom, together with such other information or suggestions as shall be required by the board of trustees or the state board of control, or to the superintendent may seem desirable; which report shall be kept on file in the office of the superintendent, but shall not be printed. A copy of such report shall be sent to the governor, along with the biennial report of the board of trustees, and may be printed for the use of the legislature or for distribution; provided, the names of the inmates are not given or their identity made evident.

§ 41. **Discharge of inmates.** The board of trustees may discharge, or the superintendent may grant a temporary leave of absence to, any inmate at any time.

§ 42. **Sterilization before discharge.** Before any inmate who has been committed to the Pacific Colony, and who is feeble-minded or is afflicted with incurable chronic mania or dementia, shall be released or discharged therefrom, the board of trustees on the recommendation of the superintendent approved by a clinical psychologist holding the degree of Ph.D. and a physician qualified to serve under section nineteen of this act, after they shall have made a careful investigation of all the circum-

stances of the case, may cause such person to be sterilized; and such sterilization, whether with or without the consent of the inmate, shall be lawful, and shall not render the said commission, or its members, or any person participating in the operation, the said trustees, the said colony, or any of its officers or employees, liable civilly or criminally.

§ 43. **Action against trustees, etc.** No civil action shall be brought against the trustees, the superintendent, or any other officer or employee of the said colony, because of any act done or failure to perform any act while discharging his official duties, without leave of the controller first had or obtained. Any just claim for damages against such trustee, superintendent, officer or employee, for which the state would be legally or equitably liable, may be paid out of any moneys appropriated for the said institution.

§ 44. **Penalty for bringing drugs or liquor.** Any person, not authorized by law, who brings into the said colony, or within the grounds adjoining or adjacent thereto, any opium, morphine, cocaine, or other narcotic, or any intoxicating liquor of any kind whatever, except for medicinal or mechanical purposes, or any firearms, weapons or explosives of any kind, is guilty of a misdemeanor.

§ 45. **Penalty for aiding escape.** If any person procure the escape of any male inmate of the said colony, or advise, connive at, aid or assist in such escape, or conceal any such inmate after such escape, or if any person advise or connive at the escape of any female inmate of the said colony, he or she is guilty of a misdemeanor; and if any person procure the escape of any female inmate of the said colony, or aid or assist in such escape, or conceal such female inmate after such escape, he or she is guilty of a felony.

§ 46. **Trustees, etc., not to be interested in contracts.** No trustee or employee of the said colony shall be personally, directly or indirectly, interested in any contract, purchase or sale made, or any business carried on, in behalf of or for said institution. All contracts, purchases or sales made in violation of this section shall be held and declared null and void, and all moneys paid to such trustee, employee, or any other person, for his benefit, in whole or in part, in consideration of such purchases, contracts or sales made, may be recovered by civil suit, to be instituted in the name of the state of California against such trustee, employee or person acting in his behalf; and in addition, it is hereby made the duty of the governor or the board of trustees, as the case may be, upon satisfactory proof of the fact of such interest, to immediately remove the trustee or employee delinquent as aforesaid, and to report the facts to the attorney general, who shall take such legal steps in the premises as he shall deem expedient.

§ 47. **Exempt from control of state commission in lunacy.** The Pacific Colony, its inmates, officers, employees and property are hereby declared to be exempt from the operation of chapter one, title five, part three of the Political Code, and free from the supervision, inspection or control of the state commission in lunacy.

§ 48. **Appropriation.** There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of two hundred fifty thousand dollars ($250,000) for the purposes of this act.

§ 49. **Payment.** The controller of the state is hereby directed on requisition of the board of trustees, duly audited by the state board of control, to draw his warrant on the state treasurer in favor of the board of trustees for any moneys duly appropriated, to pay for the expenditures in the establishment and maintenance of the said colony, and the said treasurer is directed to pay the same from the appropriations provided therefor.

§ 50. **Validity.** The invalidity of any part of this act shall not be construed to affect the validity of any other part capable of having practical operation and effect without the invalid part.

ACT 1648a.

An act to authorize and empower the board of managers of the Agnews State Hospital to grant, under the conditions herein provided, to the Southern Pacific Railroad Company, a corporation, a right of way and easement for the purpose of constructing, maintaining and operating an industrial spur track over, along and upon a strip of land situate in the county of Santa Clara and belonging to the state of California.

[Approved May 5, 1917. Stats. 1917, p. 251. In effect July 27, 1917.]

§ 1. **Board of managers of Agnews State Hospital may grant right of way.** The board of managers of the Agnews State Hospital is hereby authorized and empowered, in its discretion, under the conditions herein provided, to grant to the Southern Pacific Railway Company, a corporation, a right of way and easement for the purpose of constructing, maintaining and operating an industrial spur track to the adjacent property of Western Grain and Sugar Products Company, a corporation, over, along and upon a strip of land not to exceed thirty feet in width, situate along the northerly and easterly boundaries of the land owned by the state of California whereon said Agnews State Hospital is located, in the county of Santa Clara, in said state, together with the right to connect such spur track with its existing line of railroad along and upon the arc of a curve having a radius no greater than that of the spur track mentioned in section two hereof.

§ 2. **Conditions.** Such grant shall be made only upon the happening of the following conditions precedent, namely: The said Southern Pacific Railway Company shall agree and bind itself, so soon as said spur track shall be completed and in condition to operate, to take up and remove from the strip of land known as Scott lane, and also sometimes called the Old Lick Mills road, all of the ties, rails and roadbed of the existing spur track thereon, situate northerly and easterly of the point where the spur track running to said state hospital departs from said Scott lane, and to remove the embankment whereon said portion of said spur track to be removed is now constructed. Said company shall further agree and bind itself so to construct such proposed new spur track as

to provide ample facilities thereunder for the free and unimpeded flow and drainage of the storm waters usually and ordinarily cast upon said lands of the state in times of heavy and prolonged rainfall.

TITLE 257.
INSECTS.

ACT 1651.

An act to prevent the importation into or transportation through the state of California of insects injurious to cultivated crops, providing exemption for specific scientific purposes, fixing the authority to grant such exemption and providing a penalty for a violation of the terms of this act.

[Approved May 5, 1917. Stats. 1917, p. 271. In effect July 27, 1917.]

§ 1. **Importation of injurious insects forbidden.** No person, firm or corporation shall bring into the state of California, nor shall any railroad, steamship, express or other transportation company knowingly transport into the state of California from any state, territory or district in the United States, or from any foreign country, or from one point or place in the state of California to another point or place therein, any cotton boll weevil, gypsy moth, or any insect in a live state which is injurious to cultivated crops, or the eggs, larvae of pupae of any insect injurious as aforesaid, except when brought for scientific purposes under the regulations hereinafter provided for; nor shall any person bring into the state of California from any state, territory or district in the United States, or from any foreign country, or from any point or place in the state of California to another point or place therein, except for scientific purposes under the regulations as hereinafter provided for, any insect in a live state which is injurious to cultivated crops, or the eggs, larvae or pupae of any insect injurious as aforesaid.

§ 2. **Insects for scientific purposes exempted.** No provision in this act shall apply to the transportation or moving into or through the state of California, of live insects for scientific purposes under the rules and regulations promulgated by the United States department of agriculture, or by the state commissioner of horticulture of California.

§ 3. **Penalty.** Any person, firm or organization who shall violate the provisions of section one of this act shall be guilty of a misdemeanor.

TITLE 259.
INSURANCE.

ACT 1667.

To provide for the organization and management of county fire insurance companies.

[Stats. 1897, p. 439.]

Amended 1907, p. 941; 1909, p. 912; 1911, p. 1339; 1917, pp. 163, 943.

§ 7. **Qualifications for members.** Any person owning insurable property in the county in which any such company is formed or any person owning insurable property in any county adjoining the county wherein such company is formed as hereinafter provided, may become a member

by insuring therein, and shall be entitled to all the rights and privileges appertaining thereto; but no person not residing in the county in which a company is formed shall become a director of such a company.

[Amendment approved May 26, 1917. Stats. 1917, p. 844.]

§ 8. **What may be insured. Limitation. Pro rata share of expense and loss.** Such company may issue policies on detached dwellings, schoolhouses, churches, and farm buildings (except hotels and public barns or garages); and such property as may be contained therein; also, on property owned by the assured on the premises or stored in public or private warehouses outside the corporate limits of any city or town; provided, that insurance upon personal property owned by the insured including automobiles and livestock permitted under this act, shall continue in full force and effect during the use or transportation thereof in the ordinary course of business of the insured wherever the same may be located at the time of loss; all for any time not exceeding five years and not to extend beyond the time limited for the existence of the charter; provided, however, that if an amount in excess of four thousand five hundred dollars subject to one risk or hazard be written, then all in excess of this amount must be immediately placed with or reinsured in some other company; provided, also, that no company that has been organized more than six months shall write insurance subject to one fire in amount exceeding three per cent of the total amount of risks or hazards upon the books of any such company. All persons, whose property is so insured, shall give their obligations to the company binding themselves, their heirs and assigns to pay their pro rata share to the company of the necessary expense and loss by fire which may be sustained by any member thereof during the time for which their respective policies are written; and they shall also at the time of effecting the insurance pay such percentage in cash and such other charges as may be required by law or by the rules and by-laws of the company. [Amendment approved May 26, 1917; Stats. 1917, p. 944.]

§ 10. **Insuring outside county and in municipalities. Definition of terms.** No such company shall insure any property beyond the limits of the county wherein the said company is organized, excepting that the company may insure in any county next adjoining the county wherein such company is organized. No such company shall issue policies covering on property in excess of four thousand five hundred dollars on any one risk or hazard under one or more policies, without immediately reinsuring the excess amount in some other company. Nor shall any such company assume a risk or risks on property situated in the limits of any city or town, or within any closely built up district, within any one block, without immediately reinsuring all in excess of four thousand five hundred dollars. Any such company may reinsure or accept reinsurance in any company operating under the provisions of this act, and not otherwise, but in no case shall the reinsurance taken by any one company exceed the amount of the risk written by the company originating the business. The location, character of, and number of risks reinsured shall not vary from that permitted in the case of original insurance. Where the amount of insurance covered by policies already written exceeds four thousand five hundred dollars, no additional in-

surance shall be written by such company on farm property, within a radius of one hundred feet and such radius shall continue at not less than seventy-five feet during the life of the policy, nor shall any risk be taken on any building closer than one hundred feet to any business property, nor shall any insurance be written by any such company on city or country property in excess of seventy-five per cent of its actual cash value and no additional insurance shall be allowed.

For the purpose of this act "a city or town block" shall be construed to be an area having at least one frontage in a closely built up district fronting on a used public street or highway, surrounded on all sides by a clear space at least equal in width to the clear space of such public street or highway and containing an area of not more than one hundred sixty thousand square feet.

"Closely built up district" shall mean territory on the line of a public highway or street or block or blocks where for not less than a quarter of a mile the dwelling-houses and business structures average less than one hundred feet apart.

"One risk" means one hazard under one or more policies, subject to one fire and relates to the amount named in the policy or policies.

"Clear space" means space free from combustible material likely to communicate fire. [Amendment approved May 26, 1917; Stats. 1917, p. 945.]

§ 12. **Assessments for deficiency. Loans to meet losses not over certain amount.** When the amount of any loss shall have been ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of said company, who shall make an assessment upon all of the property to the amount for which each several piece of property is insured, taken in connection with the rate of premium under which it may be classified; except when the amount of such loss or losses does not exceed one-eighth of one per cent of the total amount of insurance in force in any county fire insurance company, then and in such event the directors of said company may, by resolution in writing, signed by two-thirds of said directors in meeting assembled, borrow in the name of said company and give said company's note or other evidence of indebtedness therefor, in an amount or amounts whose total shall not exceed one-eighth of one per cent of the total amount of insurance in force in said company. The term of said loan or loans shall not be for a greater period than twelve months nor shall the date of maturity be in excess of thirty days beyond the date of the annual meeting of said company; provided, further, that the board of directors may at their annual meeting levy an assessment not to exceed twenty-five cents on the one hundred dollars on first class insurance and a pro-rata amount on other classes, and said sum so raised shall constitute a reserve fund to be used in emergency cases only and another assessment for this fund shall not be made while this reserve fund remains intact. [Amendment approved April 24, 1917; Stats. 1917, p. 163.]

§ 16. **Withdrawals.** Any member of such company may withdraw therefrom by surrendering his policy for cancellation at any time while the organization continues the business for which it was organized, by giving notice in writing to the secretary thereof, and paying his share

of all claims that may exist against such company; provided, that the company shall have power to cancel or terminate any policy by giving the insured five days' written notice to that effect, and returning to him any excess of premium he may have paid during the term of the policy over the cost of his insurance as measured by the rules or methods of standard fire insurance companies doing business in this state. [Amendment approved April 24, 1917; Stats. 1917, p. 164.]

§ 18½. **Form of county fire insurance policy.** The following is adopted as a standard form of county fire insurance company's policy for the state of California:

CALIFORNIA STANDARD FORM COUNTY FIRE INSURANCE POLICY.

No. —— Amount $——
Rate ——

No other insurance permitted except by agreement indorsed hereon or added hereto.

(Here insert name of company, and place of its main office in California, and name of the county in which incorporated or organized.)

By this policy of insurance the —— of —— county, in consideration of —— dollars, and the obligation as described herein and in application, does accept as a member and insures —— against loss or damage by fire during a term of —— years, commencing at noon on the —— day of ——, one thousand nine hundred and ——, and terminating at noon on the —— day of ——, one thousand nine hundred and ——, to the amount of —— dollars.

On the following property, to wit:

(Blank space for the attachment of forms.)

For a more particular description, and as forming a part of this policy, reference is had to application No. —— on file in the office of this company.

This company will not be liable beyond the actual cash value of the interest of the insured in the property at the time of loss or damage nor exceeding what it would then cost the insured to repair or replace the same with material of like kind and quality; said cash value to be estimated without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating repair or reconstruction of buildings, and without compensation for loss resulting from interruption of business or manufacture.

This policy is made and accepted subject to the foregoing stipulations and conditions and those hereinafter stated, which are hereby specifically referred to and made a part of this policy, together with such other provisions, agreements or conditions as may be indorsed hereon or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except by writing indorsed hereon or added hereto, and no person unless duly authorized in writing shall be deemed the agent of this company.

The charter and by-laws of this company are to be resorted to and used to explain the rights and obligations of the parties hereto in all cases not herein otherwise especially provided for, and are hereby made

a part of this policy. This policy is made and accepted upon the above expressed condition.

This policy shall not be valid until countersigned by the duly authorized secretary of the company at ——, California.

In witness whereof, this company has executed and attested these presents (here insert name of company) by

—— ——,
President.

Countersigned at ——, California, this —— day of ——, one thousand nine hundred and ——.

—— ——,
Secretary.

STIPULATIONS AND CONDITIONS SPECIALLY REFERRED TO.

Stipulations and conditions. Property not covered. (a) this company shall not be liable for loss to accounts, bills, currency, evidence of debt or ownership of other documents, money, notes, or securities; nor (b) unless liability is specifically assumed hereon, for the loss of bullion, casts, curiosities, drawings, dies, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, business or store or office furniture or fixtures, sculptures, frescoes and decorations, or property held on storage or for repair.

Hazards not covered. This company shall not be liable for loss by (a) theft, or (b) neglect of the insured to use all reasonable means to save and preserve the property at and after a fire, or when the property is endangered by fire; or (c) (unless fire ensues, and in that event the damage by fire only,) by explosion of any kind or lightning; or (d) by invasion, insurrection, riot, civil war, or commotion, or, (except as hereinafter provided,) by military or usurped power, or order of any civil authority, but the company will be liable, unless otherwise provided by indorsement hereon or added hereto, if the property is lost or damaged, by fire or otherwise, by civil authority or military or usurped power exercised to prevent the spread of fire not originating from a cause excepted hereunder and which fire otherwise probably would have caused the loss of or damage to the insured property.

Matters avoiding policy. This entire policy shall be void, (a) if the insured has concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof; or (b) in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

Unless otherwise provided by agreement indorsed hereon or added hereto this entire policy shall be void, (a) if the insured now has or shall procure any other insurance, whether valid or not, on property covered in whole or in part by this policy, or (b) if the interest of the insured be other than unconditional and sole ownership, or (c) if the subject of insurance be a building on ground not owned by the insured in fee simple, or (d) if with the knowledge of the insured foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed, or (e) if this policy be assigned before a loss.

Matters suspending insurance. Unless otherwise provided by agreement indorsed hereon or added hereto this company shall not be liable for loss or damage occurring (a) while the hazard be materially increased by any means within the control of the insured; or (b) if the subject of insurance be a manufacturing establishment, while it is operated in whole or in part at night later than ten o'clock or while it ceases to be operated beyond the period of ten consecutive days; or (c) while mechanics or artisans are employed in building or altering or repairing the described premises for more than fifteen days at any one time; or (d) while illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or (e) while there be kept, used or allowed on the described premises (any usage or custom of trade or manufacture to the contrary notwithstanding), calcium carbide, phosphorus, dynamite, nitroglycerine, fireworks or other explosive; or exceeding one quart each of benzine, gasoline, naphtha or ether; or more than twenty-five pounds of gunpowder; or (f) while a building herein described whether intended for occupation by owner or tenant is vacant or unoccupied beyond the period of ten (10) consecutive days; (g) while the interest in, title to or possession of the subject of insurance is changed excepting; (1) by death of the insured; (2) change of occupancy of building without material increase of hazard; and (3) transfer by one or more several copartners or co-owners to the others.

Such suspension shall not extend beyond the term of this policy nor create any right for refund of the whole or any portion of premium, nor affect the respective rights of cancellation.

Chattel mortgage. Unless otherwise provided by agreement in writing indorsed hereon or added hereto this company shall not be liable for loss or damage to any property insured hereunder while encumbered by a chattel mortgage, but the liability of the company upon other property hereby insured shall not be affected by such chattel mortgage.

Fallen building clause. Unless otherwise provided by agreement indorsed hereon or added hereto, if a building or any material part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

Removal when endangered by fire. Should any of said property be necessarily removed because of danger from fire, and there is no other insurance thereon, that part of this policy in excess of the value of the insured property remaining in the original location, or, if there is other insurance thereon, that part of this policy in excess of its proportion of the value of the insured property remaining in the original location, shall, for the ensuing five days only, cover the said removed property in its new location or locations.

Cancellation. This policy may be canceled and the insured as a member of this company may withdraw therefrom by the insured surrendering his policy for cancellation at any time while the company continues the business for which it was organized, by giving notice in writing to the secretary thereof and paying his share of all claims that may exist against this company; provided, that this company shall have power to cancel or terminate any policy by giving the insured five days written notice to that effect and returning to him any excess of premium he may

have paid during the term of the policy, over the cost of his insurance as measured by the rate of standard fire insurance companies doing business in this state.

Adjustment of losses—Arbitration. The insured who may sustain loss or damage by fire shall immediately notify the president, or in his absence, the secretary of this company, stating the amount of damage or loss sustained or claimed and if not more than one thousand five hundred dollars then the president and secretary shall proceed to ascertain the amount of such loss or damage and adjust the same. If the claim for damage or loss be for an amount greater than one thousand five hundred dollars, then the president of this company, or in his absence, the vice-president, or in the absence of both the secretary thereof, shall forthwith convene the board of directors of said company, whose duty it shall be when convened, to appoint a committee of not less than three disinterested members of this company, to ascertain the amount of such damage or loss. If in either case there is a failure of the parties to agree upon the amount of such damage or loss they may submit the question of the amount of such loss to arbitration, and in that event the president of the company shall appoint one disinterested person to act as an arbitrator, and the claimant or insured shall appoint another, and if such two arbitrators fail to agree upon the amount of such loss, then they shall select a third disinterested person to act with them and such arbitrators so appointed shall have full authority to examine witnesses and to do all other things necessary to the proper determination of the amount of loss sustained by the claimant, and shall make their award in writing to the president of the company and to the insured, and such award, so as aforesaid made, shall be final as to the amount of loss sustained. The pay of said committee shall be three dollars per day for each day's services so rendered and five cents for each mile necessarily traveled in the discharge of their duties, which shall be paid by the claimant unless the award of such committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case such expense shall be paid by the company.

Option of company in case of loss. This company may, at its option, take all or any part of the property for which insurance hereunder is claimed at its ascertained or appraised value, and may also, at its option, in satisfaction of its liability hereunder, repair, rebuild, or replace any building or structure or machine or machinery used therein, with other of like kind and quality, within a reasonable time, upon giving notice within twenty days of its intention so to do after the receipt by it of the preliminary proof of loss, or, if verified amendments have been requested, within twenty days after their receipt, or, within twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments. There can be no abandonment to this company of any property.

Apportionment of loss. This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by, and expense of, removal from the premises endangered by fire, than the amount hereby insured bears to the entire insurance covering such property whether valid or not, or by solvent or insolvent insurers.

Assessment for deficiency. When the amount of any loss shall have been ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of this company, who shall proceed in the manner as provided in section twelve of this act.

Notice of assessment. It shall be the duty of the secretary, whenever assessment shall have been made, to immediately notify every person holding a risk in this company, personally, by an agent, or by letter directed to his usual postoffice address, of the amount of such loss, and the sum due from him, as his share thereof, and of the time and to whom such payment is to be made; but such time shall not be less than thirty days, nor more than ninety days from date of such notice.

Action for neglect or refusal to pay assessments. An action may be brought against the member whose property is insured herein and this policy is automatically suspended if the insured shall not have paid, before it is delinquent, his portion of any assessment levied or other liability due this company for a period in excess of ninety days. The directors of this company who shall willfully refuse or neglect to perform the duties imposed upon them by law or the by-laws of the company, shall be liable in their individual capacity to the person sustaining such loss. An action may also be brought and maintained against this company by members thereof for losses sustained if payment is withheld after the amount of such losses have been determined and is due by the terms of the policy.

Nonwaiver by appraisal or examination. This company shall not be held to have waived any provision or condition of this policy of any forfeiture thereof, by assenting to the amount of the loss or damage or by any requirement, act or proceeding on its part relating to the appraisal or to any examination herein provided for.

Subrogation. If this company shall claim that the fire was caused by the act of any person or corporation, this company shall, upon payment of the loss be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

Time for commencement of action. No suit or action on this policy for the recovery of any claim shall be sustained, until after full compliance by the insured with all of the foregoing requirements, nor unless begun within fifteen months next after the commencement of the fire.

Definitions. Wherever in this policy the word "insured" occurs, it shall be held to include the legal representatives of the insured in case of death, and wherever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage," and wherever the words "the time of loss or damage" are used they shall be deemed the equivalent of "the time of the commencement of the fire."

There shall be printed on the outside fold of said policy in type not smaller than small pica the following words in this form:

READ THIS POLICY.

Insurance company is liable only for actual cash value.

Policy is void in case of any fraud, false swearing, misrepresentation or concealment about material facts.

Policy is void, unless otherwise agreed in writing, if—

1. It is assigned before loss;
2. Insured has or shall procure other insurance;
3. Any change occurs in location of property;
4. Insured building is on ground not owned in fee simple by the insured;
5. Insured is not sole and unconditional owner.

Policy is suspended unless otherwise agreed in writing, if—

6. Described building becomes vacant or unoccupied for ten days;
7. Mechanics are employed more than fifteen days in repairing same;
8. Property is or becomes encumbered by chattel mortgage;
9. Illuminating gas or vapor is generated in or adjacent to described building;
10. Explosives or prohibited quantities of gasoline, etc., (except the gasoline contained in automobiles and gas engine tanks), as are kept on premises; and provided, also, that the insurance on livestock and automobiles shall cover wherever located at the time of the fire.

[PASTER.]

Insurance ceases if described building or any material part falls except as result of fire.

Policy does not cover certain enumerated personal property.

Note particularly duty of insured in case of loss; also provisions avoiding or suspending policy, including changes of ownership or possession.

DWELLING-HOUSE AND CONTENTS POLICY FORM.

$—— on the —— dwelling-house and all its additions, foundations, porches, verandas and screens, including all permanent wall and ceiling decorations, frescoes, gas, steam, water, heating and lighting fixtures and connections, and all other permanent fixtures attached to and forming a part of the building, situate ——, California.

$—— on household furniture, useful and ornamental, family wearing apparel, family stores and supplies, and all other personal effects of every kind and description (except accounts, bills, currency, evidences of debt or ownership, or other documents, money, notes, securities, bullion, drawings, dies, manuscripts, medals, models and patterns) including casts, curiosities, pictures, scientific apparatus and sculptures, the property of the insured or of any member of the insured's household, unless specifically insured, all contained in the above-described dwelling-house.

Loss, on building, if any, payable to ——.

Claim for loss on any one picture, piece of statuary, curiosity, or work of art, shall not exceed the cost of same, and unless specifically insured, shall not exceed one hundred dollars.

The privilege for the within described dwelling to remain vacant or unoccupied is hereby increased to thirty (30) consecutive days.

Permission is granted for mechanics or artisans to make alterations or repairs to the within described building for more than fifteen (15) days at any one time, and to build additions, this policy to cover on and in same under the respective items hereof.

Permission is hereby granted (when not prohibited by local ordinance) for the use of gasoline stoves or lamps, it being warranted by the insured that the reservoir attached to each stove or lamp be filled during daylight only, and then only when the stove or lamp is not in use, and that no artificial light be permitted in the room when the reservoir is being filled, and that no gasoline, except that contained in the reservoir, shall be kept within the building. A breach of this warranty renders this permit null and void.

Attached to policy No. —— of the ——.

Dated ——, 19—.

—— ——,
Secretary.

[PASTER.]

By special agreement indorsed on the policy or added thereto, the provisions regarding appraisement or apportionment of loss may be waived and the valuations of all or any of the insured property in case of total loss may be agreed upon in advance of loss.

Said standard form of policy shall be plainly printed and no portion thereof shall be in type smaller than small pica and subheads shall be in type larger than pica, and the lines of the policy shall be numbered consecutively.

All mutual fire insurance policies on property in California shall be on said standard form, and except as herein provided, shall not contain additions thereto. No part of the standard form shall be omitted therefrom.

The blanks in said standard form shall be appropriately filled. The company may add to the standard form any matter relating to its financial condition, directors, officers, stockholders and history, and the address of its home office, and principal office in the state; also in red ink any provisions respecting any limitations of liability of the company, its stockholders or members which it is required or permitted by the law of the state or county of its organization to insert in its policies.

Clauses may be added to the standard form providing for and defining the rights, duties and obligations of mortgagees, assignees and other parties who have acquired or may acquire an interest in, right to or lien upon the insured property.

No clause shall be inserted or rider attached affecting the standard form liability of the insurer for loss or damage by fire occasioned either directly or indirectly by earthquake, hurricane, volcanic action or other disturbance of nature, unless the same shall be printed in red ink in type larger than small pica and at the head of the policy there shall be printed in red ink in large bold-faced type the words "This policy contains limitations of liability not permitted in the California standard form."

Clauses may be added to the standard form (a) covering property and risks not otherwise covered; (b) assuming greater liability than is otherwise imposed on the insurer; (c) granting insured permits and privileges not otherwise provided; (d) waivers of any of the matters, voiding the policy or suspending the insurance; (e) waivers of any of the requirements imposed on the insured after loss.

Except as herein otherwise provided clauses may be attached to the standard form by separate riders in type larger than pica imposing specified duties and obligations upon the insured and limiting the liability of the insurer.

Any insurer, or the agent countersigning or issuing a fire insurance policy covering in whole or in part property in California varying from the California standard form of policy except as herein provided is guilty of a misdemeanor but any policy so issued shall notwithstanding be binding upon the company issuing the same. [New section added May 26, 1917; Stats. 1917, p. 945.]

§ 19. Repealed. All laws and parts of laws in conflict with this act are hereby repealed. [Amendment approved May 26, 1917; Stats. 1917, p. 953.]

ACT 1670a.

An act to incorporate standard provisions in policies of accident and health insurance, to prevent discriminations in connection therewith, and to prescribe penalties for violations of the provisions hereof.

[Approved May 26, 1917. Stats. 1917, p. 957. In effect January 1, 1918.]

§ 1. Accident and health insurance policies approved by insurance commissioner. On and after the first day of January, 1918, no policy of insurance against loss or damage from the sickness, or the bodily injury or death of the insured by accident shall be issued or delivered to any person in this state until a copy of the form thereof and of the classification of risks, if more than one class of risks is written and the premium rates pertaining thereto have been filed with the commissioner of insurance; nor shall it be so issued or delivered until the expiration of thirty days after it has been so filed unless the said commissioner shall sooner give his written approval thereto. If the said commissioner shall notify, in writing, the company, corporation, association, society or other insurer which has filed such form that it does not comply with the requirements of law, specifying the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the said commissioner in this regard shall be subject to review by any court of competent jurisdiction; provided, however, that nothing in this act shall be so construed as to give jurisdiction to any court not already having jurisdiction.

§ 2. What policy must contain. Contents of policy. Accident and Health insurance. No such policy shall be issued or delivered (1) unless the entire money and other considerations therefor are expressed in the policy; nor (2) unless the time at which the insurance thereunder takes effect and terminates is stated in a portion of the policy preceding its execution by the insurer; nor (3) if the policy purports to insure more than one person; nor (4) unless every printed portion thereof and of any indorsements or attached papers shall be plainly printed in type of which the face shall be not smaller than ten-point; nor (5) unless a brief description thereof be printed on its first page and on its filing back in type of which the face shall be not smaller than fourteen point;

nor (6) unless the exceptions of the policy be printed with the same prominence as the benefits to which they apply; provided, however, that any portion of such policy which purports, by reason of the circumstances under which a loss is incurred, to reduce any indemnity promised therein to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in bold-face type and with greater prominence than any other portion of the text of the policy.

§ 3. **Standard provisions.** Every such policy so issued shall contain certain standard provisions, which shall be in the words and in the order hereinafter set forth and be preceded in every policy by the caption, "Standard provisions." In each such standard provision wherever the word "insurer" is used, there shall be substituted therefor "company" or "corporation" or "association" or "society" or such other word as will properly designate the insurer. Said standard provisions shall be:

(1) **Contract.** A standard provision relative to the contract which may be in either of the following two forms: form (A) to be used in policies which do not provide for reduction of indemnity on account of change of occupation, and form (B) to be used in policies which do so provide. If form (B) is used and the policy provides indemnity against loss from sickness, the words "or contracts sickness" may be inserted therein immediately after the words "in the event that the insured is injured."

(A) **Form (A).** 1. This policy includes the indorsements and attached papers, if any, and contains the entire contract of insurance. No reduction shall be made in any indemnity herein provided by reason of change in the occupation of the insured or by reason of his doing any act or thing pertaining to any other occupation.

(B) **Form (B).** 1. This policy includes the indorsements and attached papers, if any, and contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates in the event that the insured is injured after having changed his occupation to one classified by the insurer as more hazardous than that stated in the policy, or while he is doing any act of thing pertaining to any occupation so classified, except ordinary duties about his residence or while engaged in recreation, in which event the insurer will pay only such portion of the indemnities provided in the policy as the premium paid would have purchased at the rate but within the limits so fixed by the insurer for such more hazardous occupation.

If the law of the state in which the insured resides at the time this policy is issued requires that prior to its issue a statement of the premium rates and classification of risks pertaining to it shall be filed with the state official having supervision of insurance in such state then the premium rates and classification of risks mentioned in this policy shall mean only such as have been last filed by the insurer in accordance with such law, but if such filing is not required by such law then they shall mean the insurer's premium rates and classsification of risks last made effective by it in such state prior to the occurrence of the loss for which the insurer is liable.

(2) **Changes in contract.** A standard provision relative to changes in the contract, which shall be in the following form:

2. No statement made by the applicant for insurance not included herein shall avoid the policy or be used in any legal proceeding hereunder. No agent has authority to change this policy or to waive any of its provisions. No change in this policy shall be valid unless approved by an executive officer of the insurer and such approval be indorsed hereon.

(3) **Reinstatement of policy.** A standard provision relative to reinstatement of policy after lapse which may be in either of the three following forms: form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness; and form (C) to be used in policies which insure against loss from both accident and sickness.

(A) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover loss resulting from accidental injury thereafter sustained.

(B) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its authorized agents shall reinstate the policy but only to cover such sickness as may begin more than ten days after the date of such acceptance.

(C) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy but only to cover accidental injury thereafter sustained and such sickness as may begin more than ten days after the date of such acceptance.

(4) **Time of notice of claim.** A standard provision relative to time of notice of claim which may be in either of the three following forms: form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness, and form (C) to be used in policies which insure against loss from both accident and sickness. If form (A) or form (C) is used the insurer may at its option add thereto the following sentence: "In event of accidental death immediate notice thereof must be given to the insurer."

(A) 4. Written notice of injury on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury.

(B) 4. Written notice of sickness on which claim may be based must be given to the insurer within ten days after the commencement of the disability from such sickness.

(C) 4. Written notice of injury or of sickness on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury or within ten days after the commencement of disability from such sickness.

(5) **Sufficiency of notice of claim.** A standard provision relative to sufficiency of notice of claim which shall be in the following form and

in which the insurer shall insert in the blank space such office and its location as it may desire to designate for such purpose of notice:

5. Such notice given by or in behalf of the insured or beneficiary, as the case may be, to the insurer at —— or to any authorized agent of the insurer, with particulars sufficient to identify the insured, shall be deemed to be notice to the insurer. Failure to give notice within the time provided in this policy shall not invalidate any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(6) **Forms for filing proof of loss.** A standard provision relative to furnishing forms for the convenience of the insured in submitting proof of loss as follows:

6. The insurer upon receipt of such notice, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not so furnished within fifteen days after the receipt of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

(7) **Filing proof of loss.** A standard provision relative to filing proof of loss which shall be in such one of the following forms as may be appropriate to the indemnities provided:

(A) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the date of the loss for which claim is made.

(B) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the termination of the period of disability for which the company is liable.

(C) 7. Affirmative proof of loss must be furnished to the insurer at its said office in case of claim for loss of time from disability within ninety days after the termination of the period for which the insurer is liable, and in case of claim for any other loss, within ninety days after the date of such loss.

(8) **Examination of person insured.** A standard provision relative to examination of the person of the insured and relative to autopsy which shall be in the following form:

8. The insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim hereunder, and also the right and opportunity to make an autopsy in case of death where it is not forbidden by law.

(9) **Time within which payments made.** A standard provision relative the time within which payments other than those for loss of time on account of disability shall be made, which provision may be in either of the following two forms and which may be omitted from any policy providing only indemnity for loss of time on account of disability. The insurer shall insert in the blank space either the word "immediately" or appropriate language to designate such period of time, not more than

sixty days, as it may desire; form (A) to be used in policies which do not provide indemnity for loss of time on account of disability and form (B) to be used in policies which do so provide.

(A) 9. All indemnities provided in this policy will be paid —— after receipt of due proof.

(B) 9. All indemnities provided in this policy for loss other than that of time on account of disability will be paid —— after receipt of due proof.

(10) **Periodical payments of indemnity.** A standard provision relative to periodical payments of indemnity for loss of time on account of disability, which provision shall be in the following form, and which may be omitted from any policy not providing for such indemnity. The insurer shall insert in the first blank space of the form, appropriate language to designate the proportion of accrued indemnity it may desire to pay, which proportion may be all or any part not less than one-half, and in the second blank space shall insert any period of time not exceeding sixty days:

10. Upon request of the insured and subject to due proof of loss —— accrued indemnity for loss of time on account of disability will be paid at the expiration of each —— during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of due proof.

(11) **Indemnity payments.** A standard provision relative to indemnity payments which may be in either of the two following forms: form (A) to be used in policies which designate a beneficiary and form (B) to be used in policies which do not designate any beneficiary other than the insured:

(A) 11. Indemnity for loss of life of the insured is payable to the beneficiary if surviving the insured, and otherwise to the estate of the insured. All other indemnities of this policy are payable to the insured.

(B) 11. All the indemnities of this policy are payable to the insured.

(12) **Cancellation of policy.** A standard provision for cancellation of the policy at the instance of the insured which shall be in the following form:

12. If the insured shall at any time change his occupation to one classified by the insurer as less hazardous than that stated in the policy, the insurer, upon written request of the insured, and surrender of the policy, will cancel the same and will return to the insured the unearned premium.

(13) **Rights of beneficiary.** A standard provision relative to the rights of the beneficiary under the policy which shall be in the following form and which may be omitted from any policy not designating a beneficiary:

13. Consent of the beneficiary shall not be requisite to surrender or assignment of this policy, or to change of beneficiary, or to any other changes in the policy.

(14) **Time within which suit may be brought.** A standard provision limiting the time within which suit may be brought upon the policy as follows:

14. No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of this policy, nor shall such action be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy.

(15) **Time limitations.** A standard provision relative to time limitations of the policy as follows:

15. If any time limitation of this policy with respect to giving notice of claim or furnishing proof of loss is less than that permited by the law of the state in which the insured resides at the time this policy is issued, such limitation is hereby extended to agree with the minimum period permitted by such law.

§ 4. **Optional standard provisions.** No such policy shall be so issued or delivered which contains any provision (1) relative to cancellation at the instance of the insurer; or (2) limiting the amount of indemnity to a sum less than the amount stated in the policy and for which the premium has been paid; or, (3) providing for the deduction of any premium from the amount paid in settlement of claim; or, (4) relative to other insurance by the same insurer; or, (5) relative to the age limits of the policy; unless such provisions which are hereby designated as optional standard provisions, shall be in the words and in the order in which they are hereafter set forth, but the insurer may at its option omit from the policy any such optional standard provision. Such optional standard provisions if inserted in the policy shall immediately succeed the standard provisions named in section three of this act.

(1) **Cancellation of policy.** An optional standard provision relative to cancellation of the policy at the instance of the insurer as follows:

16. The insurer may cancel this policy at any time by writen notice delivered to the insured or mailed to his last address, as shown by the records of the insurer, together with cash or the insurer's check for the unearned portion of the premiums actually paid by the insured, and such cancellation shall be without prejudice to any claim originating prior thereto.

(2) **Reduction of amount of indemnity.** An optional standard provision relative to reduction of the amount of indemnity to a sum less than that stated in the policy as follows:

17. If the insured shall carry with another company, corporation, association or society other insurance covering the same loss giving written notice to the insurer, then in that case the insurer shall be liable only for such portion of the indemnity promised as the said indemnity bears to the total amount of like indemnity in all policies covering such loss, and for the return of such part of the premium paid as shall exceed the pro rata for the indemnity thus determined.

(3) **Deduction of premium.** An optional standard provision relative to deduction of premium upon settlement of claim as follows:

18. Upon the payment of claim hereunder any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(4) **Other insurance.** An optional standard provision relative to other insurance by the same insurer which shall be in such one of the following forms as may be appropriate to the indemnities provided, and in the blank spaces of which the insurer shall insert such upward limits of indemnity as are specified by the insurer's classification of risks, filed as required by this act.

(A) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity in excess of $——, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(B) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss of time on account of disability in excess of $—— weekly, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(C) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith making the aggregate indemnity for loss other than that of time on account of disability in excess of $——, or the aggregate indemnity for loss of time on account of disability in excess of $—— weekly the excess insurance of either kind shall be void and all premiums paid for such excess shall be returned to the insured.

(5) **Age limits.** An optional standard provision relative to the age limits of the policy which shall be in the following form and in the blank spaces of which the insurer shall insert such number of years as it may elect:

20. The insurance under this policy shall not cover any person under the age of —— years nor over the age of —— years. Any premium paid to the insurer for any period not covered by this policy will be returned unon request.

§ 5. **Contradictory provisions.** No such policy shall be so issued or delivered if it contains any provision contradictory, in whole or part, of any of the provisions hereinbefore in this act designated as "Standard provisions" or as "Optional standard provisions"; nor shall any indorsements or attached papers vary, alter, extend, be used as a substitute for, or in any way conflict with any of the said "Standard provisions" or the said "Optional standard provisions"; nor shall such policy be so issued or delivered if it contains any provisions purporting to make any portion of the charter, constitution or by-laws of the insurer a part of the policy unless such portion of the charter, constitution or by-laws shall be set forth in full in the policy, but this prohibition shall not be deemed to apply to any statement of rates or classification of risks filed with the commissioner of insurance in accordance with the provisions of this act.

§ 6. **False statement.** The falsity of any statement in the application for any policy covered by this act shall not bar the right to recovery thereunder unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer.

§ 7. **Rights of insurer in defense of claim.** The acknowledgment by any insurer of the receipt of notice given under any policy covered by this act, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

§ 8. **Alteration of application.** No alteration of any written application for insurance by erasure, insertion or otherwise, shall be made by any person other than the applicant without his written consent, and the making of any such alteration without the consent of the applicant shall be a misdemeanor. If such alteration shall be made by any officer of the insurer, or by any employee of the insurer with the insurer's knowledge or consent, then such act shall be deemed to have been performed by the insurer thereafter issuing the policy upon such altered application.

§ 9. **Policy in violation of act.** A policy issued in violation of this act shall be held valid but shall be construed as provided in this act and when any provision in such a policy is in conflict with any provision of this act the rights, duties and obligations of the insurer, the policyholder and the beneficiary shall be governed by the provisions of this act.

§ 10. **Policies issued by insurer not organized under laws of state.** The policies of insurance against accidental bodily injury or sickness issued by an insurer not organized under the laws of this state may contain, when issued in this state, any provision which the law of the state, territory or district of the United States under which the insurer is organized, prescribes for insertion in such policies, and the policies of insurance against accidental bodily injury or sickness issued by an insurer organized under the laws of this state may contain, when issued or delivered in any other state, territory, district or country, any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this section to the contrary notwithstanding.

§ 11. **Not applicable to workmen's compensation insurance, etc.** (1) Nothing in this act, however, shall apply to or affect any policy or liability of workmen's compensation insurance or any general or blanket policy of insurance issued to any municipal corporation or department thereof or to any corporation, copartnership, association or individual employer, police or fire department, underwriters' corps, salvage bureau, or like associations or organizations, where the officers, members or employees or classes or departments thereof are insured for their individual benefit against specified accidental bodily injuries or sickness while exposed to the hazards of the occupation or otherwise in consideration of a premium intended to cover the risks of all the persons insured under such policy.

(2) **Supplemental contracts.** Nothing in this act shall apply to or in any way affect contracts providing additional benefits for accidental death supplemental to contracts of life or endowment insurance nor

where such supplemental contracts contain provisions which operate to safeguard such insurance against lapse or to provide a special surrender value therefor in the event that the insured shall be totally and permanently disabled by reason of accidental bodily injury or by sickness; provided, that no such supplemental contract shall be issued or delivered to any person in this state unless and until a copy of the form thereof has been submitted to and approved by the commissioner of insurance, under such reasonable rules and regulations as he shall make concerning the provisions in such contracts and their submission to and approval by him.

(3) **Fraternal societies.** Nothing in this act shall apply to or in any way affect fraternal benefit societies.

(4) **Railroad ticket policies.** The provisions of this act contained in clause (five) of section two and clauses two, three, eight and twelve of section three may be omitted from railroad ticket policies sold only at railroad stations, or at railroad ticket offices, by railroad employees.

§ 12. **Penalty.** Any company, corporation, association, society or other insurer or any officer or agent thereof, which or who issues or delivers to any person in this state any policy in willful violation of the provisions of this act shall be punished by a fine of not more than one hundred dollars for each offense and the commissioner of insurance may revoke the license of any company, corporation, association, society or other insurer of another state or country, or of the agent thereof, which or who willfully violates any provision of this act.

§ 13. **"Indemnity."** The term "indemnity," as used in this act, means benefits promised.

§ 14. **Penalty for discrimination.** No insurance corporation authorized in this state to issue or deliver insurance against loss or damage from sickness, or bodily injury or death by accident, nor any agent of such corporation, shall make or permit any discrimination between individuals of the same class in the amount of premiums, policy fees, or rates charged for any policy of accident or health insurance, or in the benefits payable thereunder or in any of the terms or conditions of such insurance contract, or in any other manner whatsoever. Any person or corporation violating any provision of this section shall be guilty of a misdemeanor.

§ 15. **In effect, when.** This act shall take effect on the first day of January, 1918. Any policy covered by this act the form of which has received the approval of the commissioner of insurance may be issued or delivered in this state on and after the said date.

ACT 1672c.

An act defining certain classes of contracts for the exchange of indemnity, prescribing regulations therefor and fixing a license fee. [Approved December 24, 1911. Stats. Ex. Sess. 1911, p. 111.]

Repealed May 26, 1917; Stats. 1917, p. 1170. See Act 1672k.

ACT 1672k.

An act providing for reciprocal and interexchanges of indemnities, prescribing regulations therefor and fixing a license fee, and repealing an act entitled "An act defining certain classes of contracts for the exchange of indemnity, prescribing regulations therefor and fixing a license fee," approved December 24, 1911.

[Approved May 26, 1917. Stats. 1917, p. 1170. In effect July 27, 1917.]

§ 1. **Exchange of reciprocal or interinsurance contracts.** Individuals, partnerships and corporations of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or interinsurance contracts with each other, or with individuals, partnerships and corporations of other states, territories, districts and countries, providing insurance among themselves from any loss which may be insured against under other provisions of law, except life insurance.

§ 2. **Execution of contracts.** Such contracts may be executed by an attorney, agent or other representative herein designated as attorney, duly authorized and acting for such subscribers under powers of attorney, and such attorney may be a corporation. The principal office of such attorney shall be maintained at such place as is designated by the subscribers in the power of attorney. The power of attorney may further provide for the right of substitution and revocation and impose such restrictions upon the exercise of the power granted as may be agreed upon by the subscribers, and may further provide for the exercise of any right reserved to the subscribers, directly or through a board or other body to be selected under such rules or regulations as the subscribers may adopt.

§ 3. **Declaration filed with insurance commissioner.** Such subscribers so contracting among themselves shall through their attorney, file with the insurance commissioner a declaration verified by the oath of such attorney, or where such attorney is a corporation, by the oath of the duly authorized officers thereof, setting forth:

(a) The name of the attorney and the name or designation under which such contracts are issued, which name or designation shall not be so similar to any name or designation adopted by any attorney or by any insurance organization in the United States writing the same class of insurance, prior to the adoption of such name or designation by the attorney, as to confuse or deceive.

(b) The location of the principal office.

(c) The kind or kinds of insurance to be effected.

(d) A copy of each form of policy, contract or agreement under or by which insurance is to be effected.

(e) A copy of the form of power of attorney under which such insurance is to be effected.

(f) That applications have been made for insurance upon at least one hundred separate risks aggregating not less than one million dollars represented by executed contracts or bona fide applications to become concurrently effective; or in case of employer's liability or workmen's

compensation insurance, covering a total pay roll of not less than one million dollars.

(g) That there is in the possession of such attorney and available for the payment of losses, assets conforming to the requirements of section six hereof.

(h) A financial statement under oath in form hereinafter prescribed for the annual statement.

(i) The instrument authorizing service of process as provided for in this act.

(j) Certificate showing deposits of funds or securities.

§ 4. **Instrument and bond filed by attorney.** Concurrently with the filing of the declaration provided for the terms of section three of this act, the attorney shall file with the insurance commissioner:

(a) An instrument in writing executed by him for said subscribers, conditioned that upon the issuance of certificate of authority provided for in this act, action may be brought in the county in which the property or person insured thereunder is located and service of process may be had upon the insurance commissioner in all suits in this state arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney. Three copies of such process shall be served and the insurance commissioner shall file one copy, forward one copy to said attorney by registered mail addressed to the attorney at the principal office as fixed in the certificate filed, and shall return one copy with his admission of service. A judgment rendered in any such case where service of process has been so made shall be valid and binding against any and all such subscribers as their interests appear and such judgment may be satisfied out of the funds in the possession of the attorney belonging to such subscribers or otherwise.

(b) **Bond.** A bond in favor of the people of the state of California, executed by the said attorney, with two sureties to be approved by the insurance commissioner, in the penal sum of ten thousand dollars, conditioned that the attorney will faithfully perform the duties imposed upon him under the said powers of attorney and faithfully account for moneys handled by him thereunder; such bond may be sued upon by any subscriber suffering loss through violation of the conditions thereof and liability thereunder may be enforced by any individual subscribers or any number of subscribers, in one and the same action; provided, however, that where the power of attorney executed by the subscribers or the rules and regulations adopted by the association for the conduct of its business thereunder, provide for the bonding of the attorney, a certified copy of the bond executed in accordance with such powers of attorney or rules and regulations, shall be filed with the insurance commissioner in lieu of any other bond required under this act.

§ 5. **Statement of indemnity.** There shall be filed with the insurance commissioner by such attorney whenever the insurance commissioner shall so require, a statement under oath of such attorney showing the maximum amount of indemnity upon a single risk, and, except as to

workmen's compensation insurance, no subscriber shall assume on any single risk an amount greater than ten per cent of the net worth of such subscriber where the liability assumed exceeds the amount of one premium deposit.

§ 6. **Assets to be maintained. If deficiency in assets. Reserves of independent groups.** There shall at all times be maintained as assets, a sum in cash or securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, equal to one hundred per cent of the net unearned premiums or deposits collected and accredited to the accounts of subscribers, or assets equal to fifty per cent of the net annual deposits collected and credited to the accounts of subscribers on policies having one year or less to run and pro rata on those for longer periods, in addition to which there shall be maintained as a reserve in cash or such securities, assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, the same to be calculated on the basis of net premiums or deposits as in this section defined, unless otherwise provided by law, and in accordance with the laws of the state relating to similar reserves for companies insuring similar risks.

For the purpose of computing said reserves and assets, net deposits shall be construed to mean the advance payments of subscribers after deducting therefrom the amount specifically provided in the subscribers' agreement for expense. If at any time the assets so held in cash or such securities, exclusive of loss reserves herein provided for, shall be less than required above, or be less than twenty-five thousand dollars, the subscribers, or their attorney for them shall make up the deficiency within thirty days after notice from the insurance commissioner so to do.

Where the subscribers are grouped, by industries or otherwise, under any rule or agreement which exempts the funds of one group from liability, in whole or in part, for the payment of losses or expenses chargeable against another group, each independent group must maintain the reserve herein specified and comply with the requirements of subdivision (f) of section three hereof, relative to the number and amount of risks to be assumed.

§ 7. **Report of financial condition. Examination by insurance commissioner.** Such attorney shall, within the time limited for filing the annual statement by insurance companies transacting the same kind of business, make a report, under oath, to the insurance commissioner for each calendar year, showing the financial condition of affairs at the office where such contracts are issued, and shall at any time furnish such additional information and reports as may be required; provided, however, that the attorney shall not be required to furnish the names and addresses of any subscribers except in case of an unpaid final judgment. The assets, business affairs and records of such organization, shall be subject to examination by the insurance commissioner at any reasonable time, and such examination shall be at the expense of the organization examined. The right of examination herein granted shall include the right to examine the records containing the names and addresses of the

subscribers, but any information obtained therefrom shall be regarded as confidential and the disclosure thereof, except under order of court, shall constitute a breach of official duty. Where the principal office of the attorney is located in another state, the insurance commissioner may, in lieu of the examination provided for in this section, accept a certified copy of the report of examination made by the insurance department of the state where the principal office is located, or by the insurance department of any other state.

§ 8. **Right of corporation to enter into insurance contracts.** Any corporation now or hereafter organized under the laws of the state shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to enter into insurance contracts of the kind and character herein mentioned. The right to enter into such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as fully granted as the rights and powers expressly conferred.

§ 9. **Certificate of authority.** Upon compliance with the requirements of this act, the insurance commissioner shall issue a certificate of authority or a license to the attorney authorizing him to make such contracts of insurance, which license shall specify the kind or kinds of insurance to be effected and shall contain the name of the attorney, the location of the principal office and the name of the designation under which such contracts of insurance are issued. Such license shall be renewed annually upon a showing that the standard of solvency required herein has been maintained and all fees and taxes required have been paid.

§ 10. **Penalty.** Any attorney who shall exchange any contracts of insurance of the kind and character specified in this act, or any attorney or representative of such attorney, who shall solicit or negotiate any applications for same without the attorney first complying with the foregoing provisions, shall be deemed guilty of a misdemeanor. For the purpose of organization, and upon issuance of permit by the insurance commissioner, powers of attorney and applications for such contracts may be solicited without compliance with the provisions of this act, but no attorney, agent or other person shall make any such contracts of insurance until all of the provisions of this act shall have been complied with.

§ 11. **Revocation of certificate.** In addition to the foregoing penalties and where not otherwise provided, the penalty for failure or refusal to comply with any or all of the terms and provisions of this act, upon the part of the attorney, shall be the refusal, suspension or revocation of certificate of authority on license by the insurance commissioner after due notice and opportunity for hearing has been given such attorney so that he may appear and show cause why such action should not be taken.

§ 12. **Fees. Tax upon gross premiums.** In lieu of all other taxes, licenses or fees whatever, state or local, such attorney shall pay annually on account of the transaction of such business in this state, the same fees as are paid by mutual companies transacting the same kind

of business, and an annual tax upon the gross premiums or deposits, collected from subscribers in this state during the preceding calendar year, after deducting therefrom deposit returns or cancellations, consideration for reinsurance and all amounts returned to subscribers or credited to their accounts as savings; such tax to be computed at the same rate as fixed by law for the taxation of mutual companies transacting the same kind of business.

§ 13. **Provisions inserted not inconistent with law.** The attorney may insert in any form of policy prescribed by the laws of this state any provisions or conditions required by the plan of reciprocal or interinsurance; provided, that same shall not be inconsistent with or in conflict with any law of this state. Such policy in lieu of conforming to the language and form prescribed by such law shall be held to conform thereto in substance if such policy includes a provision or indorsement reciting that the policy shall be construed as if in the language and form prescribed by such law. Any such indorsement shall first be filed with the insurance commissioner.

§ 14. **Not subject to insurance laws. Right of insurance commissioner.** Except as herein provided, the making of contracts as herein provided for and such other matters as are incident thereto shall not be subject to the laws of this state relating to insurance unless they are therein specifically mentioned. This section shall not be construed however, as depriving the insurance department of the state of examination of and supervision over reciprocal or interinsurance exchanges, their agents and brokers, of the right to hold and conduct hearings in the manner and under the same procedure as provided by law in the case of mutual or other insurance companies but such right is hereby expressly recognized and confirmed.

§ 15. **Repealed.** All laws or parts of laws in conflict herewith are hereby repealed.

ACT 1672 l.

An act authorizing the governor to appoint a commission to investigate and advise the legislature concerning the adoption of a system of social insurance, and to make a report to the forty-third session of the legislature and making an appropriation therefor.

[Approved May 14, 1917. Stats. 1917, p. 468. In effect July 27, 1917.]

§ 1. **Commission to investigate social insurance.** The governor of the state of California is hereby authorized and requested to appoint a commission of seven persons, citizens of this state, to investigate and advise the legislature concerning the adoption of a system of social insurance. The commission shall report to the forty-third session of the legislature the details of any or all branches of a social insurance system it may deem advisable, and may recommend for adoption any measure or measures it deems expedient.

§ 2. **Powers.** The commission shall have power to subpoena witnesses and to enforce their attendance at any public hearings that may

be held for the purpose of obtaining evidence of conditions bearing upon the establishment of any system of social insurance.

§ 3. **Duty of persons, etc., to supply information.** It shall be the duty of every person, firm or corporation employing labor in this state to supply the commission, at its request, with any and all information from the books, reports, contracts, pay-rolls, documents or papers of such person, firm or corporation which the commission may require to carry out the purposes of this act.

§ 4. **Traveling expenses. Secretary.** The members of the commission shall serve without pay but shall be reimbursed for traveling expenses incurred in connection with the work of the commission. The commission shall have power to employ an executive secretary and expert, clerical and other assistants.

§ 5. **Appropriation. Revolving fund.** There is hereby appropriated out of the general fund, not otherwise appropriated, the sum of twenty-two thousand five hundred dollars, or any portion thereof, as may in the judgment of the commission be required for the purposes of this act. The sum of five hundred dollars of said money may be drawn from the state treasury upon approval of the state board of control without the submission of receipts, vouchers or itemized statements to be used by the commission as a cash revolving fund to facilitate its work.

ACT 1672m.

An act to provide for the establishment and maintenance by fire insurance corporations of guaranty surplus funds and special reserve funds and thereby limiting liability and to provide for the waiver by policy-holders of recourse against stockholders of such corporations.

[Approved May 31, 1917. Stats. 1917, p. 1378. In effect July 30, 1917.]

§ 1. **Guaranty surplus fund and special reserve fund may be created. Limitation on amount of dividend. Sum deducted in estimating profits.** Every domestic corporation having a capital stock issuing fire insurance policies may at its option create a guaranty surplus fund and a special reserve fund by the adoption of a resolution by its board of directors at a regular meeting, and by filing with the insurance commissioner a copy thereof, declaring their desire and intention to create such funds and to do business under this and the two following sections. The insurance commissioner shall thereupon make or cause to be made a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by it at the date of the examination, and the same may be equally divided between and set apart to constitute guaranty surplus and special reserve funds to the extent necessary to constitute such two funds. Said certificate shall be recorded in the office of the insurance commissioner. Thereafter all policies and renewals of policies issued by such corporation shall contain a provision that they are issued under and in pursuance of this act, referring to the same by the title of this act, and all such policies and renewals shall be subject

to the provisions of this act, and a policy-holder, by accepting the policy, becomes bound thereby. After the passage and filing of such resolution, the corporation shall not make, declare or pay in any form any dividend upon its capital stock exceeding seven per centum per annum thereon, and upon the surplus funds to be formed thereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its capital stock; and until such funds shall together amount to a sum equal to its capital stock, the entire surplus profits of the corporation above such annual dividend of seven per centum shall be equally divided between and be set apart to constitute such guaranty surplus and special reserve funds, which funds shall be held and used as hereinafter provided and not otherwise. Any such corporation which shall declare or pay any dividend contrary to the provisions herein contained, shall be deemed to have forfeited its charter. In estimating the profits of any such corporation for the purpose of making a division thereof between the guaranty surplus fund and the special reserve fund, until such funds shall together amount to a sum equal to its capital stock, there shall be deducted from the gross assets of the corporation, including for the purpose the amount of the guaranty surplus fund and the special reserve fund, the sum of the following items:

1. The amount of all outstanding claims.

2. An amount sufficient to meet the liability of the corporation for the unearned premiums upon its unexpired policies, which shall be at least equal to the unearned premiums on policies having one year or less to run, and a pro rata proportion of the premiums received on the policies having more than one year to run, and shall be known as the reinsurance liability.

3. The amount of its guaranty surplus fund and its special reserve fund.

4. The amount of its capital.

5. Interest at the rate of seven per centum per annum upon the amount of its capital and of such funds for whatever time shall have elapsed since the last preceding cash dividend. The balance shall constitute the net surplus of the corporation subject to the equal division between the funds as herein provided. When the corporation shall notify the insurance commissioner that it has fulfilled the requirements of this section, and that its guaranty surplus fund and its special reserve fund, taken together, equal its capital stock, he shall make an examination of the corporation and make a certificate of the result thereof; and thereafter such corporation may continue, out of any subsequent profits of its business, to add to such funds, either the whole or only a part thereof, but when any addition is made to the special reserve fund, an equal sum shall be carried to the guaranty surplus fund.

§ 2. **Investment of funds. Waiver of recourse against stockholders.** Such guaranty surplus fund shall be held and invested by such corporation in the same manner as its capital stock and surplus accumulations, and shall be liable and appplicable in the same manner as the capital of the corporation to the payment generally of its losses. Such special

reserve fund, until it shall amount to a sum equal to one-half of the capital stock, shall be invested in the same manner as the capital of the corporation, and any additional sum added to such fund shall be invested by the corportion in any securities in which the corporation is by law authorized to invest its capital or its surplus accumulations, and shall be deposited from time to time, as the same shall accumulate and be invested, with the insurance commissioner. Such special reserve fund shall be deemed a fund to protect such corporation and its policy-holders other than claimants for losses already existing or then occurred in case of any extraordinary conflagration or conflagrations as hereafter mentioned, and shall not be regarded as any part or portion of the assets of the corporation so as to be liable for any claim for loss by fire or otherwise, except as herein provided.

No corporation, after it has declared its desire and intention, as provided in section one hereof, to create a guaranty surplus fund and a special reserve fund, shall have the right thereafter to insert in its policy a provision to the effect that the insured, by accepting the policy, waives recourse against the stockholders of the corporation, until such corporation has created, as herein provided, a guaranty surplus fund and a special reserve fund each in amount equal to one-half of the par value of its capital stock; but, when it has so done, then it may thereafter insert in any policy it may thereafter issue a provision in red ink to the effect that the insured, by accepting the policy, waives any recourse to its stockholders and agrees, in case of making any claim thereunder, to look solely to the assets and property of the corporation as and to the extent herein provided.

§ 3. In case of extensive conflagration. Corporation discharged from liability. Transfer of securities in special reserve fund. If guaranty surplus fund reduced. If capital impaired. When any extensive conflagration or conflagrations shall occur whereby the claims upon the corporation shall exceed the amount of its capital stock and of the guaranty surplus fund hereinbefore provided, the corporation shall notify the insurance commissioner of the fact, who shall then make or cause to be made, an examination of the corporation, and shall issue his certificate in duplicate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability, and all other assets. One of such certificates shall be given the corporation, and the other shall be recorded in the office of the insurance commissioner. Such special reserve fund shall be immediately held to protect all policy-holders of the corporation other than such as are claimants upon it at the time, or such as become claimants in consequence of such conflagration or conflagrations. The amount of such special reserve fund, and an amount equal to the unearned premiums of such corporation, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such corporation for the protection of policy-holders other than such claimants, and for the further conduct of its business. Such certificate of the insurance commissioner shall be binding and conclusive upon all parties interested in the corporation, whether stockholders, creditors or policy-holders. Upon the payment to the

claimants for losses or otherwise, existing at the time of or caused by such general conflagration or conflagrations, of an amount to which they are respectively entitled in proportion to their several claims, of the full sum of the capital of the corporation and of its guaranty surplus fund, and of its assets, except only such special reserve fund and an amount of its assets equal to the liability of the corporation for unearned premiums, as certified by the insurance commissioner, such corporation shall be forever discharged from any and all further liability to such claimants and to each of them on any policy of insurance issued after the creation as above provided of the special reserve fund in amount equal to one-half of its capital stock. The insurance commissioner shall, after issuing such certificate, upon the demand of the corporation, transfer to it all such securities as shall have been deposited with him by it as such special reserve fund. If the amount of such special reserve fund shall be less than fifty per centum of the full amount of the capital of the corporation, a requisition shall be issued by the insurance commissioner upon the stockholders to make up the capital to that proportion of its full amount. Any capital so impaired shall be so made up to at least the sum of two hundred thousand dollars. If the corporation, after such requisition, shall fail to make up its capital to at least such amount as herein directed such special reserve fund shall be held as security and liable for all losses occurring upon policies of such corporation after such conflagration or conflagrations. If any amount greater than a sum equal to one-half of its capital stock shall by such corporation, under the provisions of the two preceding sections, have been deposited, as aforesaid, with the insurance commissioner, he shall retain of such securities a sum equal to one-half of the amount he shall so hold thereof in excess of such one-half of the capital stock, and transfer the balance thereof to the corporation as herein provided. The amount so transferred to the corporation shall, from the time of such transfer, if not less than two hundred thousand dollars, constitute the capital stock of the corporation for the further conduct of its business as hereinbefore provided. The sum so retained by the insurance commissioner shall thenceforth constitute the special reserve fund of the corporation, to which additions may be made as herein provided, and shall be held in the same manner, for the same purposes and under the same conditions as the original special reserve fund of the corporation was held. The corporation shall in an annual statement to the insurance commissioner set forth the amount of such special reserve fund and of its guaranty surplus fund. If in consequence of the payment of losses by fires, or of the expenses of the business, or of the interest payable under the provisions hereof to stockholders, or from any cause, the guaranty surplus fund shall be reduced in amount below the amount of the special reserve fund, the directors of the corporation shall have the right, at their option, at the time of making any division of the net profits as herein provided, to carry a larger sum to the guaranty surplus fund than to the special reserve fund; but this privilege shall cease when the two funds are made equal in amount. The policy registers, insurance maps, books of record and other books in actual use by the corporation in its busi-

ness, are not to be considered as assets, but shall be held by it for its use in the protection of its policy-holders not claimants for losses at the time of such general conflagration. If after the accumulation of such special reserve fund, it shall appear upon examination by the insurance commissioner that the capital of the corporation has, in the absence of any such extensive conflagration, become impaired, he shall order a call upon the stockholders to make up such impairment, and the board of directors may either comply with such order and require the necessary payments of the stockholders, or, at their option, they may apply for that purpose so much of such special reserve fund as will make such impairment good. No corporation doing business under this and the two preceding sections shall insure any larger amount upon any single risk than is permitted by law to a corporation possessing the same amount of capital irrespective of the funds hereinbefore provided for.

TITLE 264.

INVESTMENT COMPANIES.

ACT 1700.

An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a state corporation department and the office of commissioner of corporations.

[Approved May 18, 1917. Stats. 1917, p. 673. In effect July 27, 1917.]

§ 1. **Title.** This act shall be known as the "corporate securities act."

§ 2. **Words defined.** Words used in this act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter, and in the neuter, the masculine and feminine; the singular number includes the plural, and the plural, the singular; "writing" includes "printing" and "typewriting"; "oath" includes "affirmation"; the word "county" includes "city and county"; and "territory" includes "district." The following words have in this act the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "department" means the "state corporation department" created by this act.

2. The word "commissioner" means the "commissioner of corporations."

3. **Company.** The word "company" includes all domestic and foreign, private corporations, associations, joint stock companies, and partnerships, of every kind, and also trustees, as hereinafter defined; excepting therefrom:

(a) All national banking associations and other corporations organized and existing under and by virtue of the acts of the congress of the United States;

(b) All public utilities subject to the jurisdiction, control, and regulation of the railroad commission of this state and to the public utilities act;

(c) All corporations transacting a banking or insurance business within this state;

(d) All corporations, associations, or societies transacting business under the supervision, examination, and license of the bureau of building and loan supervision; and

(e) Every corporation organized under the laws of this state exclusively for the purposes provided in any of the following titles, to wit: XIa, XII, XIIa, XIV, XXI, XXII, of Part IV, Division First, of the Civil Code, and in accordance with the provisions of such titles.

4. **"Trust."** The word "trust" as used in this act includes all voluntary trusts, as the same are defined in the Civil Code, expressly created by or declared in an instrument in writing, other than a will or a judicial writ, order, decree, or judgment, to carry on any business or to secure the payment or repayment of money.

5. The word "trustee," except as hereinafter used in subdivision nine of this section, includes only persons or companies executing trusts as hereinbefore defined.

6. **"Security."** The word "security" includes:

(a) All shares or other interests or rights into which the capital, capital stock, or property of companies or rights of stockholders or members thereof are divided, including all treasury shares and shares of their own capital stock purchased or otherwise acquired by companies upon delinquent assessments sales or in any other lawful manner, and all certificates and other instruments issued by them or their authority, evidencing or representing such shares, interests, or rights;

(b) All bonds, debentures, and evidences of indebtedness issued by any company; and

(c) Any instrument issued or offered to the public by any company, evidencing or representing any right to participate or share in the profits or earnings or the distribution of assets of any business carried on for profit; excepting therefrom the following:

1. Bills of exchange and promissory notes not offered to the public by the drawer, maker, or underwriter thereof, and all mortgages and deeds of trust of property situated in this state, executed to secure the payment thereof; and

2. Any security listed in any standard manual of information, as to which the commissioner shall first make and file his written finding to the effect that such security is fully and accurately described in such manual and that a sale thereof will not, in his opinion, work a fraud upon the purchaser thereof; provided, that if such finding shall thereafter be vacated or set aside, such security shall not thereafter be deemed to be included within this exception.

7. **"Sale."** A "sale" within the meaning of this act, includes every contract by which, for a pecuniary consideration, called a price, one transfers to another an interest in property, and also an exchange, a

pledge, a hypothecation, and any transfer in trust or otherwise as security for the performance of an obligation, and also any issue of any security by a company; and the word "sell," as used in this act, includes every act by which such sale is made.

8. **"Agent."** The word "agent" as used in this act means and includes every person or company employed or appointed by a company or a broker who shall, within this state, either as an employee or otherwise, for a compensation, sell, offer for sale, negotiate for the sale of, or take subscriptions for any security of any company of its own issue offered for sale by it.

9. **"Broker."** The word "broker" as used in this act includes every person or company, other than an agent, who shall, in this state, engage, either wholly or in part, in the business of selling, offering for sale, negotiating for the sale of, or otherwise dealing in any security or securities issued by others, or of underwriting any issue of securities or of purchasing such securities with the purpose of reselling them or of offering them for sale to the public for a commission or at a profit; excepting therefrom the following:

(a) Any owner of any security who is not the issuer or an underwriter thereof, who sells or exchanges the same for his own account; provided, that such sale or exchange is not made in the course of repeated and successive transactions of like or similar character by him;

(b) Any trustee, who, in such capacity, lawfully disposes of any property;

(c) Any company transacting a banking or insurance business in this state, selling a security for an owner thereof or a broker, other than an underwriter thereof, at a commission of not more than two per cent of the par or face value thereof; provided, such sale is not made in the course of repeated and successive transactions of like or similar character by such company;

(d) One, not the issuer, who disposes of securities to a broker or to a purchaser who, as a part of his regular business, purchases such securities;

(e) Any pledge-holder selling, in good faith and not for the purpose of avoiding the provisions of this act, and in the ordinary course of business, a security pledged with him as security for a bona fide debt.

10. **"Actual fraud."** The words "actual fraud," as used in this act, are defined in section one thousand five hundred seventy-two of the Civil Code.

§ 3. Permit to sell securities. Application. Commissioner appointed attorney. No company shall sell, except upon a sale for a delinquent assessment made in accordance with the provisions of Article II of Chapter II of Title I of Part IV of Division First of the Civil Code; or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the commissioner a permit authorizing it so to do. Such application shall be in writing, shall be verified as provided in the Code of Civil Procedure for the verification of pleadings, and shall be filed in the

office of the commissioner. In such application the applicant shall set forth the names and addresses of its officers, the location of its office, an itemized account of its financial condition, the amount and character of its assets and liabilities, a detailed statement of the plan upon which it proposes to transact business, a copy of any security it proposes to issue, a copy of any contract it proposes to make concerning the same, a copy of any prospectus or advertisement, or other description of such securities, then prepared by or for it for distribution or publication, and such additional information concerning the company, its condition and affairs as the commissioner may require. If the applicant is a partnership or an unincorporated association or joint stock company, it shall file with its application a copy of its articles of partnership or association, and all other papers pertaining to its organization. If the applicant is a trustee, it shall file with its application a copy of all instruments by which the trust is created and in which it is accepted, acknowledged, or declared. If the applicant is a corporation, it shall file with its application a copy of all minutes of any proceedings of its directors or stockholders or members relating to or affecting the issue of such securities, and also a copy of its articles of incorporation and of its by-laws and of any amendments thereto. If the applicant is a corporation or association organized under the laws of any other state, territory, or government, it shall also file with its application a certificate, executed by the proper officer of such state, territory, or government not more than thirty daws before the filing of such application, showing that such applicant is authorized to transact business in such state, territory, or government; and also, in such form as the commissioner may prescribe, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it may be served, with the same effect as if said corporation or association were organized or created under the laws of this state and had been lawfully served with process therein.

§ 4. **Examination of application. Permit issued. Permit to sell security.** Upon the filing of such application, it shall be the duty of the commissioner to examine it and the other papers and documents filed therewith, and he may, if he deems it advisable, make or have made a detailed examination, audit, and investigation of the applicant and its affairs. If he finds that the proposed plan of business of the applicant is not unfair, unjust, or inequitable, that it intends to fairly and honestly transact its business, and that the securities that it proposes to issue and the methods to be used by it in issuing or dispoing of them are not such as, in his opinion, will work a fraud upon the purchaser thereof, the commissioner shall issue to the applicant a permit authorizing it to issue and dispose of securities, as therein provided, in this state, in such amounts and for such considerations and upon such terms and conditions as the commissioner may in said permit provide. Otherwise, he shall deny the application and refuse such permit and notify the applicant in writing of his decision. Every permit shall recite in bold type that the issuance thereof is permissive only and does not con-

stitute a recommendation or indorsement of the securities permitted to be issued. The commissioner may impose such conditions as he may deem necessary to the issue of such securities, and shall have the power to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit, and may, from time to time for cause, amend, alter, or revoke any permit issued by him, or temporarily suspend the rights of the applicant under such permit.

§ 5. **Certificate of agent or broker. Fee.** No person or company shall act as agent or broker until such person or company shall have first applied for and secured from the commissioner a certificate, then in effect, authorizing such person or company so to do. Every such certificate shall expire on the thirty-first day of December next after its issuance, unless sooner revoked. To secure such certificate, the applicant shall make and file in the office of the commissioner an application therefor in writing, verified by or in behalf of the applicant. In such application, the applicant shall set forth, in addition to such other information as may be required by the commissioner:

1. The name and address of the applicant, and, if it be a corporation, association, or joint stock company, the name and address of each of its managing officers and agents, and, if it be a partnership, the name and address of each of the partners;

2. A succinct statement of facts showing that the applicant, and its managing officers and agents, if it be a corporation, or members, if it be a partnership, have a good business reputation;

3. If the applicant is a broker, the general plan and character of the business of the applicant.

For filing such application, the applicant shall pay a fee as hereinafter provided. If the applicant is a corporation or association organized under the laws of any other state, territory, or government, it shall file with its application a copy of its articles of incorporation or association, together with a certificate executed by the proper officer of such state, territory, or government not more than thirty days before the filing of such application, showing that such applicant is authorizd to transact business in such state, territory, or government, and also, in such form as the commissioner may prescribe, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it, arising out of or founded upon the actual fraud of such applicant in the sale of securities within this state, may be served, with the same effect as if said corporation or association were organized or created under the laws of this state and had been lawfully served with process therein.

§ 6. **Certificate issued.** The commissioner shall examine such application, and shall make such further investigation of the applicant and its affairs as he shall deem advisable. If, from such examination, the commissioner shall be satisfied of the good business reputation of the applicant and of its officers or members, if any, he shall issue such certificate. Otherwise, he shall refuse the same and deny the application

and notify the applicant of his decision. The commissioner may at any time revoke any broker's or agent's certificate issued by him if he shall find that the holder thereof is of bad business repute, or has violated any provisions of this act, or has engaged, or is about to engage in any fraudulent transaction.

§ 7. **Advertisements submitted to commissioner.** No person, partnership, association, or corporation, other than a broker holding a broker's certificate, then in effect, shall issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any security, to be issued by any company, that such person, partnership, association, or corporation desires or proposes to sell, until the company proposing to issue such security shall have first secured from the commissioner a permit authorizing it to issue or sell such security; nor shall any company, broker, or agent, or any other person, issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any security sold or offered for sale by it, unless the name of the company, broker, agent, or person issuing, circulating, or publishing the same shall be subscribed thereto, and a true copy thereof shall have been first filed in the office of the commissioner, or deposited in a United States postoffice, properly inclosed in a sealed envelope, addressed to the commissioner at Sacramento, California, with the postage duly prepaid thereon; nor shall any company, broker, or agent, or any other person, issue, circulate, or publish any such advertisement, pamphlet, prospectus, or circular after notice in writing given to it by the commissioner that, in his opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof.

§ 8. **Report by company on sale of securities.** Every company authorized by the commissioner to sell securities shall thereafter, at such times as it may be required by the commissioner, make and file in the office of the commissioner a report, setting forth, in such form as the commissioner may prescribe, the securities sold by it under the authority of any permit issued by him, the proceeds derived therefrom, the disposition of such proceeds, and such other information concerning its property, officers, or affairs, relating to or affecting the value of such securities, as the commissioner may require.

§ 9. **Statement by broker on sale of securities.** Every broker shall, at such times as it may be required by the commissioner, make and file in the office of the commissioner a true and correct statement concerning any security sold or offered for sale by such broker, showing the name and location of the principal office of the issuer of such security; the names of its managing officers, if it is a corporation, or of its members, if it is a partnership; its assets, liabilities, and issued capital stock, at the close of its fiscal year then last ended, or at a later date; its gross income, expenses, and fixed charges for the year next preceding such date, or for such time as such issuer of such security has transacted business, if for less than one year, and the approximate price at which such broker has sold or proposes to sell such security, together with such other information, of which the broker may have knowledge, as the commissioner may require.

§ 10. **Papers open to public inspection.** All papers, documents, reports, and other instruments in writing filed with the commissioner under this act shall be open to public inspection; provided, that if, in his judgment, the public welfare or the welfare of any company, broker, or agent demands that any portion of such information be not made public, he may, in his discretion, withhold such information from public inspection for such time as in his judgment is necessary. The commissioner may at any time give, issue, or make public any information concerning any company or any contracts, stocks, bonds, or other securities sold or offered for sale within this state, if in his judgment the giving, issuing, or publishing of the same will be of public interest or advantage or will tend to prevent the fraudulent sale of such securities.

§ 11. **Review of orders, etc., of commissioner.** Every order, decision, permit or other official act of the commissioner shall be subject to review, in accordance with the provisions of Chapter I of Title I of Part III of the Code of Civil Procedure; and any party aggrieved by any such order, decision, or permit of the commissioner may appeal therefrom to the superior court of the county of Sacramento, by serving upon the commissioner a notice of such appeal, a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision, and the payment of the fee therefor, within sixty days after the making of any such order, permit, or decision. Thereupon, the commissioner shall, within ten days, make and certify such transcript, and the appellant shall, within five days thereafter, file the same and the notice of appeal with the clerk of said court. Upon the hearing of such appeal, the burden of proof shall lie upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the commissioner from which the appeal is taken, but shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the commissioner in making such order, decision, or permit.

§ 12. **Securities void.** Every security issued by any company, without a permit of the commissioner authorizing the same then in effect, shall be void, and every security issued by any company, with the authorization of the commissioner but not conforming in its provisions to the provisions, if any, which it is required by the permit of the commissioner to contain, shall be void.

§ 13. **Penalty for company violating act.** Every company which shall directly or indirectly issue or cause to be issued any security contrary to the provisions of this act, or of the constitution of this state, or in nonconformity with a permit of the commissioner authorizing the same, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes, if any, specified in such permit, or to any purpose specified in such permit in excess of any amount limited in such permit to be used for such purpose, shall be guilty of a public offense and shall be punishable by a fine not exceeding ten thousand dollars.

§ 14. **Penalty for officers, etc.** Every officer, agent, or employee of any company, and every other person, who knowingly authorizes, directs,

or aids in the issue or sale of, or issues or executes, or sells, or causes or assists in causing to be issued, executed, or sold, any security, in nonconformity with a permit of the commissioner then in effect authorizing such issue, or contrary to the provisions of this act, or of the constitution of this state, or who, in any application to the commissioner, or in any proceeding before him, or in any examination, audit, or investigation made by him or his authority, knowingly makes any false statement or representation, or who, with knowledge of its falsity, files or causes to be filed in the office of the commissioner any false statement or representation concerning such company or the property which it then holds or proposes to acquire, or concerning its officers or its financial condition or other affairs, or concerning its proposed plan of business, or who, with knowledge of the falsity of any such statement or representation, issues, executes, or sells, or causes to be issued, executed, or sold, any security, without first informing the commissioner of the falsity of such statement in writing, or who, directly or indirectly, knowingly applies, or causes or assists in causing to be applied, the proceeds, or any part thereof, from the sale of any security to any purpose contrary to the provisions of the permit authorizing the issue of such security, or to any purpose specified in such permit in excess of any amount limited in such permit to be used for such purpose, or who, with knowledge that any security has been issued or executed in violation of any of the provisions of this act, sells or offers the same for sale, or who, with knowledge that any advertisement, pamphlet, prospectus, or circular concerning any security contains any statement that is false or misleading, or otherwise likely to deceive a reader thereof issues, circulates, or publishes the same, or shall cause the same to be issued, circulated, or published, or who, in any other respect, willfully violates or fails to comply with any of the provisions of this act, or who, in any other respect, willfully violates or fails, omits, or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement, or any part or provision thereof, of the commissioner under the provisions of this act, is guilty of a public offense and shall be punished by imprisonment in the state prison not exceeding five years, or in a county jail not exceeding two years, or by a fine not exceeding five thousand dollars, or by both such fine and imprisonment.

§ 15. **State corporation department created.** There is hereby created a state corporation department. The chief officer of such department shall be the commissioner of corporations. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars with corporate security or two or more sureties, to be approved by the governor of the state, for the faithful discharge of the duties of his office.

§ 16. **Clerks and deputies. Duty of attorney general.** The commissioner shall employ such clerks and deputies as he may need to discharge

in proper manner the duties imposed upon him by law. The attorney general shall render to the commissioner opinions upon all questions of law, relating to the construction or interpretation of this act or arising in the administration thereof, that may be submitted to him by the commissioner, and shall act as the attorney for the commissioner in all actions and proceedings brought by or against him under or pursuant to any of the provisions of this act. Neither the commissioner nor any of his clerks or deputies shall be interested in any company which shall have applied for or secured a permit to sell securities, or in any broker, or agent as a director, stockholders, officer, member, agent, or employee. Such clerks and deputies shall perform such duties as the commissioner shall assign to them. He shall fix the compensation of such clerks and deputies, which compensation shall be paid monthly, on the certificate of the commissioner and on the warrant of the controller, out of the state treasury. Each deputy shall, within fifteen days after his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state.

§ 17. **Powers of commissioner.** The commissioner shall at all times have the power to administer oaths and to make an examination or investigation of the books, records, accounts, and other papers, and of the business of any company, broker, or agent permitted or authorized by him to sell securities, to make dividends, to create debts, to divide, withdraw, or pay to the stockholders, or any of them, any part of its capital stock, or to increase or reduce its capital stock. In any examination, audit, or investigation made or hearing conducted by him, he shall have the power to take the testimony of any witness and to issue subpoenas requiring the attendance upon such examination, audit, investigation, or hearing in any part of the state of witnesses and the production of books, documents, and other things under their control, and in any such case to take or cause to be taken the deposition of any witness residing within or without the state. All of the provisions of Chapter II of Title III of Part IV of the Code of Civil Procedure, relating to the means of production of evidence out of court, shall be applicable to any examination, investigation, or hearing under this act. No person shall be excused from testifying or from producing any book, document, or other thing under his control upon any such examination, audit, investigation, or hearing upon the ground that his testimony, or the book, document, or other thing required of him, may tend to incriminate him, or may have a tendency to subject him to punishment for a felony, or to a penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which he shall have been so compelled to testify under oath, or to produce such documentary or other evidence; provided, that no person so testifying shall be exempt from prosecution or punishment for perjury if committed by him in his testimony. The authority to make or conduct any such examination, audit, investigation, or hearing, including the authority to administer oaths, and to subpoena witnesses and take their testimony, may be delegated by the commissioner to any deputy or examiner appointed by him for that purpose. Such appointment shall be made by an instrument in writing, signed by

the commissioner under his official seal, and upon such examination, audit, investigation, or hearing, the same shall be produced by such deputy or examiner at any time upon demand therefor.

§ 18. **Service of process.** In any action or proceeding commenced or prosecuted in this state against any corporation or association which shall have appointed the commissioner its attorney, as provided in section three of this act, and in any action or proceeding commenced or prosecuted in this state, arising out of or founded upon the actual fraud of any corporation or association which shall have appointed the commissioner its attorney, as provided in section five of this act, service of process may be made upon the commissioner. In any such case, the commissioner shall forthwith forward by mail, postage prepaid, to the person designated by such corporation or association by an instrument in writing duly executed by it and filed with the commissioner, at the address stated in such instrument, or, if no such designation has been made, to the secretary of such corporation or association at its last known post-office address, a copy of such process; whereupon, and upon the payment of the fee herein provided for, service of such process upon such company shall be deemed to be complete and to be personal service upon such corporation or association, with the same effect as if said corporation or association were organized or incorporated under the laws of this state and had been lawfully served with process therein. The certificate of the commissioner, under his official seal, of such service, shall be competent and sufficient proof thereof.

§ 19. **Offices.** The commissioner shall have his principal office in the city of Sacramento, and may establish branch offices in the city and county of San Francisco, and in the city of Los Angeles, and he shall from time to time obtain the necessary furniture, stationery, fuel, light, and other proper conveniences for the transaction of the business of the department; the expenses of which shall be paid out of the state treasury on the certificate of the commissioner and the warrant of the controller.

§ 20. **Fees. "Corporation commission fund."** The commissioner shall charge and collect the following fees:

1. For filing any application for a permit to issue securities, ten dollars, plus—

One twentieth of one per cent of the amount of any excess of the aggregate value of the securities sought to be issued over twenty thousand dollars and not exceeding fifty thousand dollars;

One twenty-fifth of one per cent of such amount in excess of fifty thousand dollars and not exceeding one hundred thousand dollars;

One fiftieth of one per cent of such amount in excess of one hundred thousand dollars and not exceeding five hundred thousand dollars; and

One one-hundredth of one per cent of such amount in excess of five hundred thousand dollars.

The value of such securities shall be deemed to be their par or face value, if they have a par or face value; otherwise, the price at which the company proposes to sell or issue the same, or the value, as alleged in the application, of the consideration (if other than money) to be received in exchange therefor.

2. For filing any application for a permit or other authority to make dividends, create debts, or to divide, withdraw, increase, reduce or pay to the stockholders or any of them the capital stock, or any part thereof, the same amount that would otherwise be chargeable or collectible if such application were for a permit to issue securities; provided, that in any such case the value shall be determined by the amount of dividends made, debts created, or capital stock divided, withdrawn, increased, reduced, or paid.

3. For filing any application for a broker's certificate, five dollars.

4. For filing application for an agent's certificate, one dollar.

5. For any examination, audit, or investigation, ten dollars per day or fraction thereof, if made by the commissioner, or the actual amount of the salary or other compensation, not exceeding ten dollars per day, paid to any deputy or other employee of the commissioner, if made by a deputy or other employee, for each day or fraction thereof that such commissioner, deputy, or other employee shall necessarily be absent from his office for the purpose of making such examination, audit, or investigation, plus the actual amount of traveling expenses reasonably incurred in the performance of such work.

6. For copies of papers and records not required to be certified or otherwise authenticated by the commissioner, ten cents for each folio.

7. For certified copies of official documents, orders, and other papers filed in his office; for making and mailing copies of process served upon him under the provisions of section eighteen of this act, and for transcripts on appeal, fifteen cents for each folio and one dollar for each certificate under seal affixed thereto.

8. For certificate of service and mailing of process served upon the commissioner under the provisions of sections eighteen of this act, two dollars.

No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution; but the commissioner may fix a reasonable charge for publications issued under his authority.

All fees charged and collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the state to the credit of a fund to be known as the "corporation commission fund," which fund is hereby created.

§ 21. **Appropriated for use of commissioner. Revolving fund.** All moneys which shall be paid into the state treasury and credited to the "corporation commission fund" are hereby appropriated to be used by the commissioner in carrying out the provisions of this act; and the controller shall draw his warrant on said fund from time to time in favor of the commissioner for the amounts expended under his direction, and the treasurer shall pay the same. The commissioner may, with the consent of the board of control, withdraw from said fund a sum not exceeding one thousand dollars, to be used as a revolving fund where cash advances are necessary. The commissioner must account for the sum withdrawn for said revolving fund at any time upon demand of the board of control.

§ 22. **Seal.** The commissioner shall adopt a seal bearing the following inscription: "Commissioner of Corporations State of California." The seal shall be affixed to all writs, orders, permits, and certificates issued by him, and to such other instruments as he shall direct. All courts shall take judicial notice of said seal.

§ 23. **Copies of orders, etc.** The commissioner may execute in duplicate any order, finding, or permit issued by him, and each of such parts shall be deemed to be an original. An original of every such order, finding, or permit shall be retained and preserved by him in his office. Copies of all documents, orders, and permits made, executed, or issued by the commissioner, and of all papers filed in his office, when certified by the commissioner under his official seal, shall be received in evidence in all cases in like manner and with the same effect as the originals. Any order or permit issued by the commissioner, or a copy thereof certified by the commissioner under his official seal, to be a true copy of the original order or permit, may be recorded in the office of the county recorder of the county in which is located the principal place of business of the company affected thereby or in which is situated any property of such company, and such record shall impart notice of such order or permit, and of all its provisions, to all persons. A certificate under the seal of the commissioner that any such order or permit has not been amended, altered, revoked, or suspended may also be recorded in the same offices and with like effect.

§ 24. **Official reports prima facie evidence.** Every official report made by the commissioner, and every report, duly verified, made to him by any deputy, clerk, or other person employed by him, of any examination, audit, or investigation made by him or under his direction, and copies of such reports, certified by the commissioner, shall be prima facie evidence of the facts therein stated for all purposes in any action or proceeding wherein any company, broker, agent, or the commissioner is a party.

§ 25. **Subscription for shares prior to incorporation. Election of officers prior to issuing shares.** Neither this act nor any provision hereof shall be deemed to prohibit subscriptions for shares of a corporation made prior to the incorporation thereof and set forth in its articles of incorporation; but such subscriptions shall be deemed to have been made and accepted upon the condition that such corporation, when incorporated, shall with reasonable diligence apply for and secure from the commissioner a permit authorizing the issue of the shares so subscribed for, in accordance with such subscriptions. The directors or trustees named in the articles of incorporation may, prior to the issue of any shares, organize by the election of a president, who must be one of their number, a secretary and a treasurer; and such directors, or a majority of them, or such president and secretary may, in the name of and in behalf of the corporation, present an application to the commissioner as herein provided.

§ 26. **Acts continued. Decisions, etc., continued in force. Appeals not affected. Examination, etc., continued to final determination.** This act, in so far as it does not add to, take from, or alter an act entitled

"An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor," approved May 28, 1913, as amended by an act entitled "An act to amend section three of an act entitled 'An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor,' approved May 28, 1913," approved June 3, 1915, shall be construed as a continuation thereof.

All decisions, orders, rules, findings, certificates, or permits heretofore made or issued, and acts done by the commissioner, shall continue in force and have the same effect as if they had been lawfully made, issued, or done under the provisions of this act.

This act shall not affect any appeal pending from any decision of the commissioner, or any proceeding to which he, in his official capacity, is a party; but the same may be prosecuted or defended with the same effect as if this act had not been passed. Any examination, audit, or investigation undertaken, commenced, or prosecuted prior to the taking effect of this act may be conducted to a final determination in the same manner and with the same effect as if it had been undertaken, commenced, or prosecuted under the provisions of this act, and in the manner herein provided. No action or proceeding, either civil or criminal, or cause of action arising under any law of this state shall abate by reason of the passage of this act, but actions or proceedings may be commenced and prosecuted upon such causes in the same manner and with the same effect as if this act had not been passed.

§ 27. **Foreign and interstate commerce.** Neither this act nor any provision hereof shall apply to or be construed as a regulation of commerce with foreign nations or among the several states, except in so far as the same may be permitted under the provisions of the constitution and the acts of the congress of the United States.

§ 28. **Constitutionality.** If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 29. **Repealed.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE 266.

IRRIGATION.

ACT 1723j.

An act to authorize irrigation districts to co-operate and contract with the United States under the provisions of the federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract.

[Approved May 5, 1917. Stats. 1917, p. 243. In effect July 27, 1917.]

§ 1. **Irrigation districts may co-operate with the United States.** In addition to the powers with which irrigation districts have been vested under the act approved March 31, 1897, and acts amendatory thereof or supplementary thereto and acts of or to which said act is amendatory or supplementary, irrigation districts heretofore or hereafter organized under said acts shall have the following powers: To co-operate and contract with the United States under the federal reclamation act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of congress heretofore or hereafter enacted authorizing or permitting such co-operation, for purposes of construction of works, whether for irrigation or drainage, or both, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands.

§ 2. **Power of board of directors. Transfer of books. Appointment as fiscal agent.** The board of directors shall generally perform all such acts as shall be necessary to carry out the enlarged powers in this act enumerated. Said board may enter into any obligation or contract with the United States for the aforesaid purposes, and may provide therein for the delivery and distribution of water for the lands of such district under the aforesaid acts of congress and the rules and regulations established thereunder. The contract may provide for the conveyance to the United States as partial consideration for the privileges obtained by the district under said contract, of water rights or other property of the district; and in case contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be transferred to, or deposited with the United States, if so provided by said contract and authorized as hereinafter set forth, at not less than ninety-five per cent of their par value, to the amount to be paid by the district to United States or any part thereof; the interets, or principal, or both, on said bonds to be raised by assessment and levy as hereinafter prescribed, and to be regularly paid to the United States and applied as provided in said contract. Bonds transferred to or deposited with the

United States may call for the payment of such interest not exceeding six per cent per annum, may be of such denomination, and may call for the repayment of the principal at such times as may be agreed upon between the board and the secretary of the interior. The contract with the United States may likewise call for the payment of the amount or amounts to be paid by the district to the United States or any part thereof at such times and in such installments and with such interest charges not exceeding the aforesaid rate as may be agreed upon, and for assessment and levy therefor as hereinafter provided. Moreover the board may accept on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collection of moneys for or on behalf of the United States in connection with any federal reclamation project, whereupon the district shall be authorized so to act and to assume the duties and liabilities incident to such action, and the said board shall have full power to do any and all things required by the federal statutes now or hereafter enacted in connection therewith, and all things required by the rules and regulations now or that may hereafter be established by any department of the federal government in regard thereto. Districts co-operating with the United States may rent or lease water to private lands, entrymen, or municipalities in the neighborhood of the district, in pursuance of contract with the United States.

§ 3. Election on proposal to enter contract. Notice. Ballots. Any proposal to enter into a contract with the United States for the repayment of construction moneys, the cost of a water supply or the acquisition of property, and to issue bonds, if any be proposed, shall be voted upon at an election wherein proceedings shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of district bonds. Said proposal, with such plans and estimates of cost as have been made in connection therewith, shall be submitted to the state engineer for his examination and report, and the proceedings in that regard shall be in accord with section thirty of the act approved March 31, 1897, as amended, in so far as the same may be applicable. Notice of the election herein provided for shall contain in addition to the information required in the case of ordinary bond election a statement of the maximum amount of money to be payable to the United States for construction purposes, cost of water supply and acquisition of property, exclusive of penalties and interest, together with a general statement of the property, if any, to be conveyed by the district as hereinabove provided. The ballots at such election shall contain a brief statement of the general purpose of said contract and the amount of the obligation to be assumed, as aforesaid, with the words "Contract—Yes" and "Contract—No," or "Contract and bonds—Yes" and "Contracts and Bonds—No," as the case may be. The board of directors may submit any such contract or proposed contract and bond issue if any, to the superior court of the county wherein is located the office of said board to determine the validity thereof and the authority of the board to enter into such contract, and the authority for and validity of the issuance and deposit or transfer of said bonds; whereupon the same proceedings shall be had as in the ordinary case of the judicial determination of the validity of bonds and with like effect.

§ 4. **Distribution of water.** All water, the right to the use of which is acquired by the district under any contract with the United States shall be distributed and apportioned by the district in accordance with the acts of congress applicable thereto, the rules and regulations of the secretary of the interior thereunder, and the provisions of said contract, and provision may be made in the contract between the district and the United States for the refusal of water service to any or all lands which may become delinquent in the payment of any assessment levied for the purpose of carrying out any contract between the district and the United States.

§ 5. **Rights of way conveyed.** Any rights of way or other property owned or acquired by the district may be conveyed by the board to the United States in so far as the same may be needed for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that mey be entered into with the United States pursuant to this act.

§ 6. **Payments by annual assessments.** All payments due or to become due to the United States under any contract between the district and the United States, including such payments of interest and principal on bonds as may be required in connection with a deposit or transfer thereof to the United States, shall be paid, unless otherwise provided by contract, by revenue derived from annual assessments, apportioned as hereinafter prescribed, and levies thereof, upon such real property within the district as may be assessable for district purposes under the laws of the state, and such real property shall be and remain liable to be assessed and levied upon for such payments as herein provided. It shall be the duty of the board of directors annually to levy an assessment sufficient to raise the money necessary to meet all payments when due as provided in the contract. All money collected in pursuance of such contract by assessments and levies, or otherwise, shall be paid into the district treasury and held in a fund to be known as the "United States contract fund," to be used for payments due to the United States under any such contract. Public lands of the United States within any district shall be subject to assessment for all purposes of this act to the extent provided for by the act of congress approved August 11, 1916, entitled "An act to promote reclamation of arid lands," or any other law which may hereafter be enacted by congress in the same relation, upon full compliance therewith by the district. Nothing in this act contained shall be construed to relieve the district from obligation to pay as a district in case of default of any land, unless so provided by the said contract between the district and the United States.

§ 7. **Apportionment of assessment.** The assessment required in any year to meet the payment due to the United States for all purposes under the contract as in this act provided may be apportioned in accordance with the benefits, and in the ascertainment of such benefits there shall be taken into account the provisions of the contract between the United States and the district, the federal laws applicable thereto, and the notices and regulations issued in pursuance of said laws, and in case such contract is for the assumption by the district as principal or guarantor of indebtedness to the United States theretofore existing on ac-

count of district lands, there shall be further taken into account the provisions of existing contracts carrying such indebtedness and the amounts of such liens as may be released in pursuance of the contract between the United States and the district.

§ 8. **Change in boundaries.** Where contract shall have been entered into between the United States and any irrigation district the district shall not be dissolved, nor shall the boundaries be changed, except upon written consent of the secretary of the interior filed with the official records of the district. If such consent be given and lands be excluded, the areas excluded shall be free from all liens and charges for payments to become due to the United States.

§ 9. **Acts in force.** The provisions of the general irrigation district act, approved March 31, 1897, and acts amendatory thereof or supplemental thereto, shall be and remain in force as regards irrigation districts in this act referred to except in so far as herein modified expressly or by necessary implication; and nothing in this act shall be so construed as to affect irrigation district operations not related to co-operation with the United States. However, the provisions of section fifty-three of said act, approved March 31, 1897, shall not apply in case of any contract between an irrigation district and the United States.

ACT 1725e.

An act to recognize and declare valid all proceedings in Carmichael irrigation district.

[Approved March 20, 1917. Stats. 1917, p. 12. In effect July 27, 1917.]

§ 1. **Carmichael irrigation district validated.** Carmichael irrigation district as formed by the board of supervisors of the county of Sacramento, state of California, and as now existing, is hereby recognized and declared valid and all proceedings on organization and formation are hereby approved and declared valid.

ACT 1725f.

An act to recognize and declare valid all proceedings in Happy Valley irrigation district.

[Approved May 23, 1917. Stats. 1917, p. 906. In effect July 27, 1917.]

§ 1. **Happy Valley irrigation district validated.** The Happy Valley irrigation as formed by the board of supervisors of the county of Shasta, state of California, and as now existing, is hereby recognized and declared valid and all proceedings on organization and formation are hereby approved and declared valid.

ACT 1725g.

An act to recognize and declare valid the Paradise irrigation district, and all proceedings in relation thereto and to the organization thereof.

[Approved March 20, 1917. Stats. 1917, p. 13. In effect July 27, 1917.]

§ 1. **Paradise irrigation district validated.** Paradise irrigation district, situate in the county of Butte, as formed by the board of super-

visors of said county, and as now existing or as the boundaries thereof may hereafter be modified according to law, is hereby recognized and declared a valid irrigation district with all the powers and authority vested in irrigation districts, and all proceedings on organization and formation thereof are hereby approved and declared valid.

ACT 1725h.

An act to recognize and declare valid the Stratford irrigation district, and all proceedings in relation thereto and to the organization thereof.

[Approved March 20, 1917. Stats. 1917, p. 14. In effect July 27, 1917.]

§ 1. **Stratford irrigation district validated.** Stratford irrigation district, situated in the county of Kings, as formed by the board of supervisors of said county, and as now existing or as the boundaries thereof may hereafter be modified according to law, is hereby recognized and declared a valid irrigation district with all the powers and authority vested in irrigation districts, and all proceedings on organization and formation thereof are hereby approved and declared valid.

ACT 1725i.

An act to recognize and declare valid the Terra Bella irrigation district, and all proceedings in relation thereto and to the organization thereof.

[Approved March 20, 1917. Stats. 1917, p. 14. In effect July 27, 1917.]

§ 1. **Terra Bella irrigation district validated.** Terra Bella irrigation district, situate in the county of Tulare, as formed by the board of supervisors of said county, and as now existing or as the boundaries thereof may hereafter be modified according to law, is hereby recognized and declared a valid irrigation district with all the powers and authority vested in irrigation districts, and all proceedings on organization and formation thereof are hereby approved and declared valid.

ACT 1725j.

An act to recognize and declare valid the Lindsay-Strathmore irrigation district, and all proceedings in relation thereto and to the organization thereof.

[Approved March 20, 1917. Stats. 1917, p. 15. In effect July 27, 1917.]

§ 1. **Lindsay-Strathmore irrigation district validated.** Lindsay-Strathmore irrigation district, situate in the county of Tulare, as formed by the board of supervisors of said county, and as now existing or as the boundaries thereof may hereafter be modified according to law, is hereby recognized and declared a valid irrigation district with all the powers and authority vested in irrigation districts, and all proceedings on organization and formation thereof are hereby approved and declared valid.

ACT 1725k.

An act recognizing and declaring valid the West Side irrigation district and approving and declaring valid all proceedings on formation and organization of said district.

[Approved March 20, 1917. Stats. 1917, p. 15. In effect July 27, 1917.]

§ 1. West Side irrigation district validated. The West Side irrigation district in the county of San Joaquin, state of California, as formed and organized by the board of supervisors of said county and as now existing, is hereby recognized and declared valid and all proceedings on formation and organization of said district are hereby approved and declared valid.

ACT 1725 l.

An act to recognize and declare valid all proceedings in Baxter creek irrigation district.

[Approved May 4, 1917. Stats. 1917, p. 227. In effect July 27, 1917.]

§ 1. Baxter creek irrigation district validated. The Baxter creek irrigation district as formed by the board of supervisors of the county of Lassen, state of California, and as now existing, is hereby recognized and declared valid, and all proceedings on organization and formation thereof are hereby approved and declared valid.

ACT 1725m.

An act validating the formation and organization of Los Angeles County Drainage District Improvement No. 1 under the provisions of an act of the legislature of the state of California, approved March 21, 1903, as amended May 7, 1915, and entitled as amended "An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie, providing for the issuance of bonds and levying of assessments on lands benefited, to pay the costs and expenses thereof."

[Approved May 4, 1917. Stats. 1917, p. 227. In effect July 27, 1917.]

§ 1. Los Angeles County Drainage District Improvement No. 1 validated. Los Angeles County Drainage District Improvement No. 1, organized, formed and established under the provisions of an act of the legislature of the state of California, approved March 21, 1903, amended May 7, 1915, and entitled as amended "An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie, providing for the issuance of bonds and levying of assessments on lands benefited, to pay the costs and expenses thereof," and all proceedings leading to such organization, formation or establishment of such district, are hereby affirmed and validated, and such district is hereby declared to be duly organized and incorporated; and all the powers given to such district and the officers thereof by said act are hereby declared to be enjoyed by said district, and all the acts of said district and its officers are hereby ratified and approved.

ACT 1725n.

An act to recognize and declare valid all the proceedings in Princeton-Codora-Glenn irrigation district.

[Approved May 4, 1917. Stats. 1917, p. 228. In effect July 27, 1917.]

§ 1. Princeton-Codora-Glenn irrigation district validated. The Princeton-Codora-Glenn irrigation district as formed by the board of supervisors of the county of Glenn, state of California, and as now existing is hereby recognized and declared valid, and all the proceedings on organization and formation are hereby approved and in all respects declared valid.

ACT 1726.

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

[Approved March 31, 1897. Stats. 1897, p. 254.]

Amended 1901, p. 815; 1905, p. 27; 1909, pp. 12, 46, 429, 461, 998, 1062, 1075; 1911, pp. 509, 1111; 1911 (Extra Session), pp. 135, 139, 248; 1913, pp. 59, 781, 993; 1915, pp. 836, 1291, 1326, 1367; 1917, pp. 751, 915.

The amendments of 1917 follow:

§ 1. Majority of owners may organize irrigation district. Evidence of title. A majority in number of the holders of title, or evidences of title, including the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any law of the United States or of this state, to lands susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, such holders of title, or evidence of title and of possessory rights, representing a majority in value of said lands, according to the equalized county assessment roll or rolls for the year last preceding, may propose the organization of an irrigation district, under the provisions of this act; or the organization of an irrigation district of land susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, under the provisions of this act, may be proposed by written petition signed by not less than five hundred petitioners, each petitioner to be an adult person residing in the proposed district, or to be some person, corporation, association or partnership, the holder of title to lands in said proposed irrigation district, or evidence of title to land in said proposed irrigation district, includng the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any law of the United States or of this state, the said petitioners signing said petition shall include the owners of not less than twenty per cent in value of the land within said proposed irrigation district according to the equalized county assessment roll

or rolls for the year last preceding. Such lands proposed to be organized into an irrigation district need not consist of contiguous parcels.

Said equalized assessment roll or rolls shall be sufficient evidence of title and of such possessory rights, for the purposes of this act, except that where property is assessed to unknown owners or the assessment-roll does not purport to give the true name or gives the names of a portion only of the owners of any parcel, the actual owners of said property shall be considered the owners for all the purposes of this act, and owners of undivided interests may sign for such interest and each such owner shall be considered as one assessment payer; and provided, further, that guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioner and any fact going to the qualifications of petitioners under this act. [Amendment approved May 19, 1917; Stats. 1917, p. 751.]

§ 2. Petition to organize irrigation district. Publication. Hearing. Investigation of state engineer. Report that project is not feasible. Final hearing. Change of boundaries. In order to propose the organization of an irrigation district, a petition shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, including such aforesaid possessory rights to lands within such proposed district, and representing the requisite majority in value of said land, or a petition shall be presented to said board of supervisors signed by not less than five hundred petitioners, each petitioner to the number of at least five hundred to be an elector in the proposed district, or to be some person, corporation, association or partnership, the holder of title to lands in said proposed irrigation district, or evidence of title to lands in said proposed irrigation district, including the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any laws of the United States or of this state, the said petitioners signing said petition shall include the owners of not less than twenty per cent in value of the land within said proposed irrigation district according to the equalized county assessment roll or rolls for the year last preceding, which petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case

said organization shall not be affected. Said petition shall be presented at a regular meeting of said board and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where said petition is presented together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the state engineer. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures thereto, shall vitiate any proceedings thereon; provided, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the requirements hereinbefore set forth, it shall cause a copy of the resolution so declaring to be forwarded to the state engineer and shall postpone further hearing of said petition until a report shall be received from the state engineer. Upon receiving a copy of said resolution, the state engineer shall make or cause to be made such preliminary investigation as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken. He shall report as soon as practicable, but at all events within ninety days, in writing, on the matter to the board of supervisors from which the copy of said resolution was received, and such board of supervisors at their next regular meeting following the receipt of said report shall set a time for the consideration of said report; provided, that such time shall not be less than one week from such regular meeting of said board of supervisors; and provided, further, that notice of such time shall be given by registered mail to such party as shall have been designated for that purpose by the petitioners or by publication for at least three days in one daily newspaper published in the county in which the lands within the proposed district, or the greater portion thereof, are situated. A failure to give such last mentioned notice, however, shall not affect the

validity of subsequent proceedings. If the state engineer shall report that the supply of water available for the use of the proposed district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reasons or reason and if such report shall be filed with the said board of supervisors before the expiration of ninety days from and after the date of the adoption of the aforesaid resolution, the hearing of the petition shall again be continued for not more than two months and shall then be dismissed, unless the board of supervisors shall be petitioned in writing by three-fourths in number of the holders of title or evidence of title including possessory rights, to land within said proposed district to grant the same; provided, that if such petition is not received the board of supervisors may modify the plans for the proposed district in accordance with recommendations by the state engineer. If the report of the state engineer shall not compel the continuance of the matter as aforesaid, or if no report is received or if the state engineer makes a written statement that he has been unable to make such report, or if no report is made at the first regular meeting after the expiration of said ninety days, the board of supervisors shall, at the meeting at which said report shall have been set for hearing, proceed to a final hearing of the petition. If said board shall, after receiving an adverse report from the state engineer, as aforesaid, decide to modify the plan as set forth in said petition or shall be requested in writing by three-fourths in number of the holders of title or evidence of title, including possessory rights, to the lands within said proposed district to grant said petition, said board shall then proceed at the time set to a final hearing of the matter. On a final hearing herein provided for, the board may adjourn from day to day, but not for a longer time, until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries, but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by irrigation by means of any said systems or works be included within such proposed district. Lands already irrigated and riparian lands may be included in the district if in the judgment of the board of supervisors such land will be benefited, or if the water used thereon or the rights to the use of water thereon should in the judgment of the board of supervisors, be taken or acquired for the district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. [Amendment approved May 19, 1917; Stats. 1917, p. 752.]

§ 2a. **Duty of state engineer.** The state engineer shall have authority, and it shall be his duty, to give information so far as may be practicable to persons contemplating the organization of irrigation districts under the provisions of this act. Whenever the department of engineer-

ing shall deem it in the public interest that preliminary surveys and field investigations of proposed irrigation district projects shall be made at the expense of the state, the state engineer shall make such surveys and field investigations of such proposed irrigation district projects, and, pending the completion of such surveys and investigation, the state water commission shall have authority to withhold from appropriation any unappropriated waters likely to be needed therefor. [New section added May 19, 1917; Stats. 1917, p. 755.]

§ 14. **Board of directors, monthly meetings. Special meetings. Quorum.** The board of directors shall hold a regular meeting on the first Tuesday of each month at the place selected as the office of the board; provided, that the board may, by resolution duly entered upon its minutes, fix any other time as the time for its regular monthly meeting, but no change in the time of holding regular meetings of the board shall be made until after the resolution proposing such change has been published once a week for two successive weeks in a newspaper published in the county in which the office of the district is kept. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must by the secretary be given to each director not joining in the order. The order must specify the business to be transacted, and no other business than that specified in the order may be transacted at such special meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of the board must be public and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote, except a motion to adjourn or a motion to adjourn to a stated time, there shall be a concurrence of at least the number constituting a quorum. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours. Whenever any act is required to be done or proceeding taken by this act, or by an act supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the day specified in the resolution hereinbefore referred to as the time for the regular meeting of the board of directors; provided, also, that when a day other than the first Tuesday in the month shall have been specified as the time for the regular meeting of the board of directors, thereafter the newly elected officers of the district shall take office at noon on the day fixed for the regular monthly meeting of said board in March and said board shall meet for reorganization and the transaction of any other business of the district in the afternoon of said day. [Amendment approved May 19, 1917; Stats. 1917, p. 755.]

§ 14a. **Publication of financial condition.** The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and

disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some newspaper, published in the county where the office of the board of directors of such district is situated. [New section added May 19, 1917; Stats. 1917, p. 756.]

§ 15. **Powers of directors.** The board of directors shall have the power and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location. Said board shall also have the right to acquire, by purchase, lease, contract, condemnation, or other legal means, all lands, and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair and improvements of said canal, or canals, and works, whether in this or in other states or in a foreign nation, including canals, and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances, and also where necessary or convenient to said ends to acquire and hold the stock of other corporations domestic or foreign owning waters, canals, waterworks, franchises, concessions or rights. Said board may also acquire, own and manage such canals, reservoirs and other works jointly with other irrigation districts and irrigation corporations and may acquire the right to carry water through the canals of other irrigation districts and corporations, and may likewise grant the right to carry water through canals owned by it to other irrigation districts and irrigation corporations in this or adjoining states. [Amendment approved May 19, 1917; Stats. 1917, p. 756.]

§ 15a. **Limit on purchase. Petition of owners.** No purchase or lease of any waters, or water rights, or canals, or reservoirs, or reservoir sites, or irrigation works, or other property of any nature or kind, or stock in any other corporation, for any price, aggregate rental or consideration, or exchange of bonds at par, in excess of ten thousand dollars, in any district whose area does not exceed fifty thousand acres, or in excess of fifty thousand dollars in any district whose area is over fifty thousand acres, and not more than two hundred thousand acres, nor in excess of one hundred thousand acres, shall be final or binding on the district, nor shall the purchase price, rental or consideration or any part thereof, be paid or rendered until a petition of a majority of the holders of title, or evidence of title, and of possessory rights as aforesaid to lands within the district, such holders of title, or evidence of title, and of possessory rights representing a majority in value of said land, according to the last equalized assessment-roll of the district, if such has theretofore been made, and if such has not been made, then according to the equalized county assessment-roll covering lands of such district, shall have been

filed with the board and an order of the board made thereon confirming such purchase, or until a petition shall be presented to said board of directors, signed by not less than five hundred petitioners, each petitioner to be an elector in the district or to be some person, corporation, association or partnership, holder of title to lands in said district or evidence of title to land in said district, including the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any law of the United States or of this state, said petitioners to include the owners of not less than twenty per cent in value of the land within said district according to the equalized county assessment-roll or rolls for the year last preceding, and an order of the board made thereon confirming said purchase; provided, that such petition shall not be required where the property to be purchased or the lease was specified in the plans approved by the irrigation district bond commission and adopted by the board of directors as provided in section thirty of this act, or was among the purposes specified for any bond issue authorized by vote of the electors of said district. [New section added May 19, 1917; Stats. 1917, p. 757.

§ 15b. **Dams. Conveyances.** The board of directors of any irrigation district may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each land owner in said district for irrigation and domestic purposes; provided, that where, within irrigation districts mutual water companies have been organized to furnish water to certain specified lands within said districts, the board of directors of such districts are hereby authorized and empowered to contract for the delivery of water for such lands as lie within the boundary of said water companies, through said mutual water companies only. The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law and in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district. [New section added May 19, 1917; Stats. 1917, p. 758.]

§ 15c. **Rules for use of water.** It shall be the duty of the board of directors of any irrigation district to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. [New section added May 19, 1917; Stats. 1917, p. 758.]

§ 15d. **Change election precincts. Lease canals.** The board of directors, when they deem it advisable for the best interests of the district,

and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions or election precincts of the district or of both; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions and precincts must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in the state, shall also have the power, and such board is hereby vested with the authority, to lease the system of canals and works in the district, or any part thereof, whenever such leasing may be for the benefit of the district; provided, that when the directors of any irrigation district contemplate the leasing of the canals and works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of the lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all bids. Such lease shall in no way interfere with any rights that may have been established by law, at the time such lease is made; and, further provided, that the board of directors shall require a good and sufficient bond to secure faithful performance of the lease by the lessees.

NOTE.—Section 15½ of the act was renumbered as § 15d and amended May 19, 1917; Stats. 1917, p. 758.

§ 15½. [See § 15d and note.]

§ 16. **Condemnation proceedings.** In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title seven, part three of the Code of Civil Procedure of the state of California, and all pleadings, proceedings, and process in said title provided shall be applicable to the condemnation proceedings hereunder. [Amendment approved May 19, 1917; Stats. 1917, p. 759.]

§ 19. **Irrigation district officers to be elected.** An election, which shall be known as the general irrigation district election, shall be held in each irrigation district on the first Wednesday in February in each odd-numbered year, at which a successor shall be chosen to each officer whose term shall expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The elective officers of an irrigation district shall be as many directors as there are divisions in the district, and an assessor, a collector and a treasurer; provided, that if any two or more offices shall have been consolidated as provided in section seven or section twenty-seven hereof, only one person shall be elected to fill such consolidated offices. The term of office of each elective officer of an irrigation district elected at or after the general irrigation district election in one thousand nine hundred nineteen shall be four years, or until his successor is elected and has qualified. [Amendment approved May 19, 1917; Stats. 1917, p. 759.]

§ 19a. **Official bonds.** Within ten days after receiving their certificates of election hereinafter provided for, said officers shall take and

subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minumum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount of the collector's bond not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the district; provided, that in case any district organized under this title is appointed fiscal agent of the United States or by the United States in connection with any federal reclamation project, each of said officers shall execute a further and additional official bond in such sum as the secretary of the interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States or any person injured by the failure of such officer or the district to fully, promptly and completely perform their respective duties. [New section added May 19, 1917; Stats 1917, p. 760.]

§ 19b. **If election be not held.** If an election is not held as herein provided, then upon the filing of a petition with the secretary of the board of directors of such district, signed by ten per cent of the electors residing within the boundaries of any such irrigation district, requesting that a special election be called for the election of such officers, the directors of such district shall thereupon call a special election thereof for the election of such officers, such election to be held within not less than fifteen, nor more than thirty days after the filing of such petition. [New section added May 19, 1917; Stats. 1917, p. 760.]

§ 20. **Beginning of term. Organization.** At noon of the first Tuesday in March next following their election, except as provided in section fourteen of this act, the officers who shall have been elected at the preceding general irrigation district election shall enter upon the duties of their respective offices. On the first Tuesday in March next following each election, the directors shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. [Amendment approved May 19, 1917; Stats. 1917, p. 761.]

§ 26. **Qualification of director.** A director shall be a resident and freeholder of the irrigation district and a resident of the division which he is elected to represent. [Amendment approved May 19, 1917; Stats. 1917, p. 761.]

§ 28. **Number of directors.** In any district the board of directors thereof must upon a presentation of the petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors. [Amendment approved May 19, 1917; Stats. 1917, p. 761.]

§ 30. **Estimate of money needed for improvements.** For the purpose of constructing or purchasing necessary irrigation canals and works, and acquiring the necessary property and rights therefor, and for the purpose of acquiring waters, water rights, reservoirs, reservoir sites, and other property necessary for the purposes of said district, and otherwise carrying out the provisions of this act, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the board of directors shall find that the construction fund raised by the last previous bond issue is insufficient, or that the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of them, said board shall cause such surveys, examinations, drawings and plans to be made as shall furnish the proper basis for the said estimate. All such surveys, examinations, drawings and plans, and the estimate of cost based thereon shall be made under the direction of a competent irrigation engineer and shall be certified by him. [Amendment approved May 19, 1917; Stats. 1917, p. 761.]

§ 30a. **Report submitted to commission.** The board of directors shall then submit a copy of the said engineer's report to the commission authorized by law to approve bonds of irrigation districts for certification as legal investments for savings banks and for the other purposes specified in the act creating said commission. Said commission shall forthwith examine said report and any data in its possession or in the possession of said district and shall make such additional surveys and examinations at the expense of the district as it may deem proper or practicable, and as soon as practicable thereafter shall make to the board of directors of said district a report which shall contain such matters as, in the judgment of the said commission, may be desirable; provided, that it may state generally the conclusions of said commission regarding the supply of water available for the project, the nature of the soil proposed to be irrigated as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage, the cost of works, water rights and other property necessary for a complete and satisfactory project, and whether in its opinion it is advisable to proceed with the proposed bond issue. [New section added May 19, 1917; Stats. 1917, p. 762.]

§ 30b. **Report to board of directors. Order of amount of bonds.** If after such examination and investigation the said commission shall deem it advisable that the said plans be modified or that the amount of the bonds proposed to be issued be changed, or that under such conditions as the said commission shall prescribe such project or plan or works seems likely to prove feasible, or that in its opinion it is not advisable to proceed with the proposed bond issue, it shall so report to the board of directors of the district in writing. After receiving the said report, said board of directors, if it shall determine and shall declare by resolution that the proposed plan of works is satisfactory and that the said project is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the money necessary therefor; and provided, further, that if any district shall issue bonds to carry out any plans approved by said irrigation district bond commission as herein provided it shall be unlawful for said district to make any material change in said plans thereafter without the consent of said commission. [New section added May 19, 1917; Stats. 1917, p. 762.]

§ 30c. **Special election.** Thereafter said board when petitioned by a majority of the holders of title, or evidence of title, and of possessory rights to lands within the district, such holders of title, or evidence of title, and of such possessory rights representing a majority in value of said lands according to the equalized assessment-roll of the district, if such has theretofore been made, and, if such has not been made, then according to the equalized county assessment-roll covering the lands in such district, or when petitioned by not less than five hundred petitioners, each petition to the number of at least five hundred to be an elector in the district, or to be some person, corporation, association or partnership, the holder of title to land in the district or of evidence of title to land in said district, and which said petitioners signing said petition shall include the owners of not less than twenty per cent in value of the land within the irrigation district, according to the equalized county assessment-roll or rolls for the year last preceding, shall immediately call a special election, at which shall be submitted to the electors of such district possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount as set forth in said petition shall be issued. [New section added May, 1917; Stats. 1917, p. 762.]

§ 30d. **Notice.** Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. [New section added May 19, 1917; Stats. 1917, p. 762.]

§ 30e. **Questions on ballot. Ballots.** At said election questions as to the issuance of bonds may be submitted separately on the same ballot if estimates of the cost of the respective projects have been made and the irrigation district bond commission has reported thereon and the aforesaid petition has requested that said questions be so submitted and the respective propositions have been stated in the notices of the election. At such election the ballots shall contain a general statement of the proposition or propositions to be voted on, including the amount of bonds proposed to be issued for each purpose, but no informality in such statement shall vitiate the election. Each proposition shall be followed by the words "Yes" and "No," on separate lines, with a small inclosed space after each of said words. The electors shall vote for or against any proposition by stamping a cross (×) in the voting space after the word "Yes" or "No" respectively. On the ballot shall be printed the following under the heading "Instructions to voters": "To vote for a proposition, stamp a cross (×) in the voting space after the word 'Yes' following the proposition. To vote against a proposition, stamp a cross (×) in the voting space after the word 'No' following the proposition." If a majority of the votes cast for and against any proposition are for "Yes," the board of directors shall cause bonds in the amount specified in such proposition to be issued; if a majority of the votes cast for and against any proposition are for "No," the result of the vote on such proposition shall be so declared and entered of record. Whenever thereafter a petition of the character hereinbefore provided for in this section is presented to the board, it shall so declare of record in its minutes and shall thereupon submit such questions to said electors in the same manner and with like effect as at such previous election. [New section added May 19, 1917; Stats. 1917, p. 763.]

§ 32a. **Date payable.** When bonds are issued bearing date other than January first or July first, it shall be lawful to make such bonds payable upon the first day of January or first day of July nearest the date when the same would be payable under the provisions of section thirty-one of this act, or to make the last interest coupon payable upon the date when the principal of said bond is payable. [New section added May 19, 1917; Stats. 1917, p. 764.]

§ 33. **Paid by annual assessment.** Said bonds and the interest thereon shall be paid from revenue derived from an annual assessment upon the land within the district; and all the land within the district shall be and remain liable to be assessed for such payments as hereinafter provided, [Amendment approved May 19, 1917; Stats. 1917, p. 764.]

§ 35. **Duty of assessor.** The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real estate in the district, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment-book, with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head: (1) the name of the person to whom the property is assessed, if the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) land by township,

range, section or fractional section, and when such land is not congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres and locality; (3) city and town lots, naming the city or town and the number and block, according to the system of numbering in such city or town; (4) the cash value of real estate, other than city or town lots; (5) the cash value of city and town lots; (6) the total value of all property assessed; (7) the total value of all property after equalization by the board of directors; (8) such other things as the board of directors may require. Improvements on any lands or town lots within such districts shall be exempt from taxation for any of the purposes mentioned in this act. Any property which may have escaped the payment of any assessment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year. The term improvements as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class or description erected or being erected upon said lands or city or town lots. [Amendment approved May 19, 1917; Stats. 1917, p. 764.]

§ 39. **Assessment for interest.** The board of directors shall then, within fifteen days after the close of its session as a board of equalization, levy an assessment upon the lands within the district in an amount sufficient to raise the interest due or that will become due on all outstanding bonds of the district on the first day of the next ensuing January and the first day of the next ensuing July, or that the board of directors believes will become due on either or both of said dates, on bonds authorized but not sold; also sufficient to pay the principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year; also sufficient to pay in full all sums due or that will become due from the district before the time for levying the next annual assessment, on account of rentals, or charges for lands, water rights acquired by said district under lease or contract; also sufficient to pay in full the amount of all unpaid warrants of the district issued in accordance with this act and the amount of any other contracts or obligation of the district which shall have been reduced to judgment; also sufficient to raise such amount not exceeding two per centum of the aggregate value of the lands within the district according to the latest duly equalized assessment-roll thereof, as the board of directors shall determine may be needed to be raised by assessment for the general expenses of the district during the next ensuing calendar year. [Amendment approved May 19, 1917; Stats. 1917, p. 765.]

§ 39a. **Duty of secretary.** The secretary of the board must compute and enter in a separate column of the assessment-book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds. [New section added May 19, 1917; Stats. 1917, p. 765.]

§ 39b. **Neglect to make assessment. Neglect of collector.** If as the result of the neglect or refusal of the board of directors to cause such

assessment and levies to be made as in this act provided, then the duly equalized assessment made by the county assessor of the county or each of the respective counties in which the district is situated shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors of said district is situated shall cause an assessment-roll of said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors and all expenses incident thereto shall be borne by such district and may be collected by suit at law, which shall be commenced by the district attorney of the county whose board of supervisors caused said assessment-roll to be prepared, unless the amount of such expenses shall be paid within sixty days from the time when proper demand shall have been made therefor. In case of the neglect or refusal of the collector or treasurer of any irrigation district to perform the duties imposed by law, then the tax collector and the treasurer of the county in which the office of the board of directors of such district is situated must respectively perform such duties and shall be accountable therefor upon their official bonds; but, in case any county tax collector shall collect any assessment for any irrigation district, he shall pay the same to the county treasurer, who shall place such money in special fund to the credit of the district and shall disburse the same to the proper persons for the purposes for which such assessments have been levied and shall not pay any part thereof to the treasurer of said district until said county treasurer shall be satisfied that all of the valid obligations for which such assessments were levied and for which payment has been demanded have been paid. [New section added May 19, 1917; Stats. 1917, p. 765.]

§ 39c. Duty of district attorney. It shall be the duty of the district attorney of each county in which the office of any irrigation district is located to ascertain each year whether the duties relating to the levying and collection of assessments, as in this act provided, have been performed, and if he shall learn that the board of directors or any official of any such irrigation district has neglected or refused to perform any such duty, said district attorney shall so notify the board of supervisors or the county official required by this act to perform such duty in such case, and, unless such board of supervisors or such county official shall proceed to the performance of such duty within thirty days after the receipt of such notice the district attorney shall take such action in court as may be necessary to compel the performance of such duty, and said district attorney shall give such notice to other officials, and shall take such action, as may be necessary to secure the performance in their proper sequence of the other duties relating to the levying and collection of assessments, as in this act provided, that for the enforcement of the levying and collection of any assessment hereafter required to be levied and collected for the payment of any debt hereafter incurred, in case complaint shall be made to the attorney general of the state of California that the district attorney of any county has not performed any duty devolving upon him by the provisions of this section, or that he is not proceeding with due diligence or in the proper manner in the perform-

ance of any such duty, the attorney general shall make an investigation, and if it shall be found that such charge or charges are true, said attorney general shall take such measures as may be necessary to enforce the performance of the duties relating to the levying and collection of assessments, as in this act provided. [New section added May 19, 1917; Stats. 1917, p. 766.]

§ 39d. **Extension of time.** If as the result of the neglect or refusal of any official or officials to perform any duty relating to the levying and collection of assessments, as in this act provided, it shall be impossible for such duty to be performed within the time required and such duty shall subsequently be performed, then the time within which all duties consequent upon the performance of such duty shall be performed shall be extended so as to allow the elapsing of the intervals required by this act to elapse between the performance of such duties, and the assessments herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such assessments are due and payable, as provided in section forty-one of this act. [New section added May 19, 1917; Stats. 1917, p. 767.]

§ 39e. **Assessment of land omitted.** In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment-roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for the purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. All the powers and duties respecting the collection of all assessment on possession of, claim to, or right to the possession of land now provided in sections three thousand eight hundred twenty, three thousand eight hundred twenty-one, three thousand eight hundred twenty-two, three thousand eight hundred twenty-three, three thousand eight hundred twenty-four, three thousand eight hundred twenty-five and three thousand eight hundred twenty-nine of the Political Code, as regards county assessors shall apply, so far as applicable to irrigation district assessors. [New section added May 19, 1917; Stats. 1917, p. 767.]

§ 39f. **Unpaid tolls part of assessment.** Whenever any tolls and charges for the use of water have been fixed by the board of directors, it shall be lawful to make the same payable in advance, and in case any such tolls or charges remain unpaid at the time hereinbefore specified for levying the annual assessment the amount due for such tolls and

charges may be added to and become a part of the assessment levied upon the land upon which the water for which such tolls or charges are unpaid was used. [New section added May 19, 1917; Stats. 1917, p. 768.]

§ 40. **Assessment lien, when.** The assessment upon land is a lien against the property assessed from and after the first Monday in March for any year. [Amendment approved May 19, 1917; Stats. 1917, p. 768.]

§ 53a. **Investigations by state engineer.** During the construction of any irrigation works to be paid for out of the proceeds of any bond issue which has been certified by the state irrigation district bond commission as provided in the act creating said commission, the state engineer shall have access to all plans, specifications, and records of such construction, and shall from time to time make such investigations and such reports to the board of directors of the district as he shall deem to be in the interest of the public or of the district. [New section added May 19, 1917; Stats. 1917, p. 768.]

§ 59. **Directors may call election on question of special assessment.** The board of directors may, at any time, when in their judgment it may be deemed advisable, call a special election and submit to the qualified electors of the district the question whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section thirty *d* of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—Yes" or "Assessment—No." If two-thirds or more of the votes cast are "Assessment—Yes," the board shall, at the time of the annual levy hereunder, levy an assessment sufficient to raise the amount voted; provided, however, that in case of an unexpected emergency by which the flow of water in the canal or other supply is interrupted, the amount of the indebtedness, incurred in the repair of the works of said district, caused by such interruption, not to exceed in any one year forty thousand (40,000) dollars, may also, in addition to the assessments hereinbefore provided for, be levied by the adoption of a resolution by at least four-fifths of the members of the board of directors, at the time of the levying of the annual assessment provided for in this act, without the submission of the question of such levy to a vote, as in this section hereinbefore provided. [Amendment approved May 19, 1917; Stats. 1917, p. 768.]

§ 61b. **Directors may purchase irrigation works.** The board of directors of irrigation districts may acquire, by purchase or condemnation, the irrigation system, canals and works through which lands in such districts have been or may be supplied with water for irrigation, and may exchange bonds of such irrigation district for such system or canals or works or for any portion thereof, or for any interest therein or for the capital stock of any corporation owning such system or any portion thereof, upon such terms and conditions as the said board of directors may deem best. [Amendment approved May 19, 1917; Stats. 1917, p. 769.]

§ 64. **Navigation and vested rights not affected.** [Repealed May 24, 1917; Stats. 1917, p. 915.]

§ 67a. **Unexpended money.** Whenever an object for which money has been specifically provided by assessment or by bond issue has been accomplished and any money provided therefor remains unexpended, the same shall in the discretion of the board of directors be transferred to the general fund and thereafter be available for any of the purposes of this act. [Amendment approved May 19, 1917; Stats. 1917, p. 769.]

§ 112. **Title. "Irrigation district."** This act may be referred to in any action, proceeding or legislative enactment as "the California irrigation district act" and whenever the words "irrigation district" are or have been used in any action or proceeding in any court or in any act or resolution of the legislature such words shall be construed to mean an irrigation district organized or existing under the provisions of an act of the legislature entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, or of the acts of which it is supplemental or amendatory or of the acts supplemental or amendatory thereof. [New section added May 19, 1917; Stats. 1917; p. 769.]

ACT 1732b.

An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized.

[Approved June 13, 1913. Stats. 1913, p. 778.]

Amended 1915, p. 692; 1917, p. 582.

The amendment of 1917 follows:

§ 3a. **Provisions directory.** The provisions of section two of this act as to the points upon which said commission shall report are directory merely and the board may authorize such certification when in their opinion, subject to the provisions otherwise contained in this act, their findings justify such action. [New section added May 17, 1917; Stats. 1917, p. 583.]

§ 3b. **No expenditures without consent of commission.** Whenever the bonds of any irrigation district have been certified, as provided in this act, no expenditure of any kind shall be made from the construction fund of such district without the consent of the commission provided for in this act and no obligation shall be incurred chargeable against such fund without previous authorization of the commission nor shall any

expense of any kind be incurred in excess of money actually provided by levy of assessment or otherwise. [New section added May 17, 1917; Stats. 1917, p. 583.]

ACT 1732i.

An act to be known as "the California irrigation act" providing for co-operation between the state of California and the United States and independent proceedings in the storage and diversion of water, the distribution thereof for irrigation, the manufacture of power and for domestic purposes; creating an irrigation board to form water districts, make contracts, construct reservoirs, divert and distribute water, generate, lease and sell electric current, lease water power, levy assessments, issue bonds of water districts; providing for the management, control and supervision of such water districts and of the works constructed pursuant to this act; directing the state department of engineering relative to such works; authorizing irrigation districts to reorganize under this act and generally providing a policy relating to storage, diversion and use of water, and adopting a plan for providing revenues therefor.

[Approved June 4, 1915. Stats. 1915, p. 1173.]

Amended 1917, p. 1068.

The entire act was amended in 1917 to read as follows:

§ 1. Title. The title of an act entitled, "An act to be known as 'the California irrigation act,' providing for co-operation between the state of California and the United States and independent proceedings in the storage and diversion of water, the distribution thereof for irrigation, the manufacture of power and for domestic purposes; creating an irrigation board to form water districts, make contracts, construct reservoirs, divert and distribute water, generate, lease and sell electric current, lease water-power, levy assessments, issue bonds of water districts; providing for the management, control and supervision of such water districts and of the works constructed pursuant to this act; directing the state department of engineering relative to such works; authorizing irrigation districts to reorganize under this act and generally providing a policy relating to storage, diversion and use of water, and adopting a plan for providing revenues therefor," approved June 4, 1915, is hereby amended to read as follows:

Title. An act to be known as "the California irrigation act" providing for co-operation between the state of California and the United States, and independent proceedings, in the storage and diversion of water, the distribution thereof for irrigation and other beneficial uses and purposes, the generation and manufacture of electric power; creating an irrigation board, and providing for the formation of irrigation districts and conservation districts, and the conversion of irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized for the purpose of promoting irrigation, reclamation and drainage, into irrigation districts under this act; and empowering said irrigation board to make and approve contracts and

agreements, to construct reservoirs and other works, divert, distribute and sell water and lease and sell water rights and generate, lease and sell electric power, to apportion to the constituent units of conservation districts the water and electric power to be produced and generated by conservation district works, to levy assessments, and issue bonds of irrigation districts and conservation districts; providing for the management, control and supervision of such irrigation districts and conservation districts and of the works constructed pursuant to this act; directing the state department of engineering relative to such works; and generally providing a policy relating to the storage, diversion and use of water and the manufacture or generation of electric power, and adopting a plan for providing revenues therefor.

§ 1. Irrigation board created. Office. Officers. Compensation. Amounts paid by conservation district. There is created a board to be known as the "irrigation board," which shall consist of three members, and shall constitute a body corporate and politic for the purpose of exercising the powers and performing the acts herein mentioned, and which shall have the power to sue and to be sued. Within thirty days of the date upon which this act takes effect the governor shall appoint the members of said board and the members so appointed shall serve for four years and until their successors have been appointed; provided, that the members of said board heretofore appointed under this section shall serve out the terms for which they were appointed. Their successors shall be appointed, and all vacancies shall be filled by appointment in like manner. The office of the irrigation board shall be at the city of Sacramento; a branch office may be maintained in the city and county of San Francisco.

The irrigation board shall elect one of its members as president, and shall employ a secretary and such attorneys, engineers, superintendents, inspectors and other assistants as it may require, and shall fix the terms of their employment and compensation. Each member of the irrigation board shall receive as compensation the sum of ten dollars per day for each day employed by such member in the performance of duties under this act, and shall receive actual traveling expenses while engaged in such duties. All such salaries, compensation and expenses shall be payable out of any funds under the control of the irrigation board applicable to such payments. Where a conservation district has been formed, as hereinafter provided, the irrigation board shall apportion and certify to each district therein or component unit thereof, and to each private corporation, mutual ditch company and mutual water company admitted to the benefits of such conservation district, an amount for its share of the general cost and expense of the maintenance and operation of the irrigation board in connection with such district, or component unit, or private corporation or mutual ditch company, or mutual water company, for the ensuing or previous year, and also such additional amounts as are necessary for the purpose of defraying the cost of all administrative, engineering and other legal expenses necessary for laying out the plans therefor, and such amounts shall be paid by each of such districts, or component units, to the state treasurer, and shall be deposited in a fund to be held and paid out for the account of said conservation district in

the same manner as hereinafter provided for the funds of said conservation district.

§ 2. **Interest of state in water storage paramount.** It is hereby declared that the state of California has a paramount interest in the storage and diversion of water, the irrigation of land and the production of electric power; that such storage, irrigation and production of electric power will make productive vast quantities of land that are comparatively unproductive and will increase production, property valuations and population in the state, make profitable the cultivation of small tracts and promote subdivision of larger tracts, and will promote the welfare and prosperity of all the people. The powers herein conferred upon the irrigation board are hereby declared to be police and regulatory powers and are necessary to the accomplishment of a purpose that is indispensable to the public interests.

§ 3. **Powers.** The irrigation board shall have power to make, or cause to be made, examinations and surveys, to make or adopt plans, and estimate, or cause to be estimated, the cost of all projects for the storage or diversion of water within the state of California, the distribution of said water, and the generation of electric power in connection with such storage, and the sale and distribution of such power, and to make and enter into contracts for the construction and maintenance of works for such projects and the supervision and administration thereof. The irrigation board shall also have power to confer and make agreements with any authorized department, board or officer of the United States government, or with any irrigation district, reclamation district, or drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, or with any water, power, irrigation or other company, or corporation, or association, or person, or persons, with reference to such projects and concerning examinations, surveys, works and plans in connection therewith. Any plan finally approved by the irrigation board (and when in any case the approval of any authorized department, board or officer of the United States government is necessary, it is also approved by such authorized department, board or officer) shall be the official plan approved by the state of California and authorized by it for the project involved therein, but such plan may be modified or changed from time to time thereafter in like manner as originally adopted or approved.

§ 4. **State engineering department to make surveys.** The state department of engineering, or such engineer or engineers as may be appointed by the irrigation board, shall make such surveys, examinations, reports, plans and estimates as may be required by the board, either with or without the co-operation of the United States or any department thereof, whenever said board has under its control money available with which to pay the expenses in connection therewith. All such work and all supervision of construction shall be performed under such contracts and regulations as may be made or approved by the irrigation board or agreed upon between said board and the United States.

§ 5. **Petition to organize irrigation district. Notice. Hearing. Order creating district. Approval of state engineer. Board of directors. Pro-**

ceedings to determine validity of district. "Water development districts." Whenever the holders of title, or evidence of title, representing one-half or more of any body of land susceptible of irrigation (excepting lands embraced within the limits of incorporated cities or towns) desire to form an irrigation district under the provisions of this act, for the irrigation of said land, they may present to the irrigation board a petition signed by them, or their authorized agents, which petition shall set forth generally the boundaries of the proposed district, a description of the lands by legal subdivisions or other boundaries, the county in which they are situated, the number of acres in the proposed district, and in each tract with the names (if known) of the owners thereof, and designating as unsold any lands not reduced to private ownership; and also shall state generally the source or sources from which said lands are proposed to be irrigated, and the proposed name of the district, and shall pray that the territory within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments; and guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature.

The petition must be verified by the affidavit of one of the petitioners, and a notice setting forth the exterior boundaries of said proposed district must be published once a week for four successive weeks prior to the hearing of said petition, in a newspaper of general circulation, published in each of the counties in which any of the lands intended to be embraced within such proposed irrigation district are situated, which said notice shall also designate the time and place when and where said petition will be presented to the irrigation board. Said notice shall be signed by not less than three of said petitioners, and affidavits of publication must be filed with the petition.

At the time and place designated in said notice, the irrigation board shall meet and receive the same and said petition, and any person, owning land within the said proposed irrigation district, may appear and present written objections to the creation of such district. The irrigation board shall hear and receive such evidence as may be offered in support of the petition and in support of said written objections. The irrigation board may continue said hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had. Upon the final hearing of said matter, the irrigation board shall make an order approving said petition as originally presented, or as modified by such order, excluding from the district such lands as in the judgment of the irrigation board should be excluded, and upon the filing of such order with the irrigation board, such irrigation district shall be deemed to be created. The order shall describe the exterior boundaries of the district, as determined by the irrigation board, and also the exterior boundaries of any lands excluded therefrom, and shall be indorsed upon or attached to the petition, and be signed by the president and attested by the secre-

tary of the irrigation board. A copy of the order creating such irrigation district, certified by such secretary, shall be filed in the office of the secretary of state, and a similarly certified copy of such order, together with a map showing the exterior boundaries of the district, and indicating the lands excluded therefrom, shall be filed in the office of the county recorder of each of the counties in which any of the lands within the said district are situated, and a properly certified copy of such order, together with the maps attached thereto, shall be received in all of the courts of this state as prima facie evidence of the organization of such district and of the boundaries thereof. Before the irrigation board makes such order, it may require that the project and proposed works be approved by the state engineer, or by such engineer or engineers as shall be designated by the irrigation board.

Each irrigation district created under the provisions of this act shall have a board of directors composed of owners of land within the district, elected by the owners of land in such district in the manner provided for the election of trustees of reclamation districts in section three thousand four hundred ninety-one of the Political Code of the state of California, except that such elections shall be called by and returns thereof made to the board of supervisors of the county in which the greater portion of the lands of the district are situated. Each such district shall have a board consisting of five directors; provided, that if so requested in the petition for the formation of said district, the irrigation board may order that there shall be only three directors. After the approval of the petition and the election of directors for the district, the directors shall adopt rules, not inconsistent with the laws of the state, for the government and control of the affairs of the district, which rules may be amended at any time by said board of directors.

The board of directors of any irrigation district created under this act may commence a proceeding in the superior court of any county, wherein a portion of the district is situated, to determine the legality of the existence of said district. The complaint in said proceeding shall describe the district by name and the exterior boundaries thereof, and shall contain a prayer that such district be adjudged a legal irrigation district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four successive weeks in a newspaper of general circulation published in each county where any part of such district is situated. Within thirty days after the last publication of said summons, any person, who may be interested, may appear and answer said complaint, in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed, the court must render judgment as prayed for in the complaint. If any answer shall be filed within said period, the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has, for five years prior to the commencement of such proceeding, been performing its functions as an irrigation district under this act in good faith. The proceeding under this section is hereby declared to be a proceeding in rem, and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California. All irrigation districts created under the provisions of this act, anything to the contrary elsewhere in this act con-

tained, shall be designated as "water development districts" and in all obligations and securities issued by them they shall be so designated.

§ 6. **Converting districts into irrigation districts.** Any irrigation district formed under the provisions of any other law or statute of this state, and any reclamation district or drainage district (excluding from any such district the area embraced within the limits of any incorporated city or town) susceptible of irrigation from any project adopted or approved by the irrigation board, may become an irrigation district under the provisions of this act upon presenting to the irrigation board a consent thereto signed by the holders of title, or evidence of title, of more than half of the lands embraced in said district (excepting lands within incorporated cities or towns). Upon the filing of such consent, the irrigation board shall fix a date for a hearing of the matter involved in such consent. The secretary of the irrigation board shall publish a notice of such hearing once a week for four successive weeks preceding the date fixed therefor in a newspaper of general circulation published in each of the counties in which any portion of said district is situated. At the time and place designated in said notice the irrigation board shall hear and receive such evidence as may be offered in support of the proposal to convert such district into an irrigation district under the provisions of this act and in support of any written objection thereto filed with the irrigation board. The irrigation board may continue said hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had. Upon the final hearing of said matter, the irrigation board shall make its order, providing that said district (excluding therefrom the territory embraced in incorporated cities or towns) shall thereafter be an irrigation district subject to all of the provisions of this act, or, in its discretion, said irrigation board may decline to make such order. If the irrigation board shall make an order converting such district into an irrigation district, all of the lands therein (except lands lying within the boundaries of incorporated cities or towns), shall become, and shall thereafter be, subject to all of the provisions of this act.

§ 6a. **Powers of board of directors. Action nullified by irrigation board. Compensation.** The board of directors of an irrigation district created under this act shall have power to elect one of its members president thereof; and, subject to the approval of the irrigation board, to employ engineers and others to survey, plan, locate and estimate the cost of the works necessary for the improvement of the lands of the district by irrigation, reclamation and drainage and thereafter subject to the approval of the irrigation board, to modify or change such original plan or plans, or adopt new supplemental or additional plan or plans; to acquire by purchase, condemnation or other legal means, necessary property and rights of way, and the right to take material for the construction of all necessary works, including dams, canals, drains, sluices, bulkheads, watergates, embankments, levees and pumping plants, and to construct, maintain and keep in repair all works requisite and necessary to that end, and to do all other acts and things necessary or required for the irrigation, reclamation and drainage of the lands embraced in the district, and to carry out the purposes of this act. All of the acts and

proceedings of such board of directors, however, shall be recorded in the minutes of said board, and copies thereof, certified by the secretary of said board as recorded, shall, within ten days after the passage or adoption of the same, be filed with the secretary of the irrigation board, and the irrigation board, within twenty days after such filing may, by order filed with its secretary, reject and nullify the action of the board of directors of such irrigation district, and upon the filing of a certified copy of such order of rejection or nullification with the secretary of such irrigation district, the said order of said irrigation district board shall be invalid and unenforceable for any purpose; but if such action of such irrigation district board shall not be so rejected or nullified within the period above provided, the same shall be and remain in full force and effect. The irrigation board may confirm and ratify any action of said irrigation district board at any time, and upon such confirmation and ratification such act or order of said irrigation district board shall be valid and effective for all purposes. The several members of the board of directors shall each be entitled to receive for actual and necessary services performed and for expenses incurred by them, respectively, for and in the interest of the district, such compensation as the irrigation board may determine to be just and reasonable, which shall constitute an indebtedness of the district to be paid in the same manner and out of the same fund as other debts of the district; provided, that no warrant or order drawn for such purpose shall be valid until approved by the irrigation board.

§ 6b. Conservation districts. Right of private corporation, etc., to share in benefits. Petition. Notice. Hearing. Territory included. Order creating district. Petition to be included. Proceeding to determine legality of district. The irrigation board shall have power to consolidate into single districts in the manner and for the purposes provided in this act, irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, which consolidated districts shall be known, and are herein referred to, as conservation districts; and, the purpose of the formation of such districts being primarily to provide for and promote the irrigation of the lands therein, and in connection therewith and incidental thereto the reclamation and drainage of such lands, the legislature hereby expressly declares that every such conservation district, formed as herein provided, is and shall be an irrigation district within the meaning of section thirteen of article eleven of the constitution of the state of California, and within the meaning of every other provision of said constitution relating to irrigation districts. Such conservation districts shall be composed of two or more units all or any of which units may be irrigation districts, formed under the provisions of this or any other act or statute of this state, reclamation districts, drainage districts, or other political districts of the state organized to promote irrigation, reclamation or drainage, now or hereafter to be formed. The territory embraced within such units need not be contiguous in order to be embraced within the same conservation district, provided all or a portion of the territory embraced within said respective units is susceptible of irrigation from the works proposed to

be constructed by said conservation district. Any private corporation engaged in the distribution of water to the public, for irrigation or other beneficial uses, or in the generation of hydroelectric power for sale to the public, and any mutual ditch company or mutual water company organized for the purpose of distributing water to the members or stockholders thereof, which private corporation, mutual ditch company or mutual water company is receiving or entitled to receive water from the same stream or streams for the storage or diversion of whose waters it is proposed to construct the works of said conservation district, shall have the right, upon payment of its proportion of the cost of constructing, operating and maintaining such works, to share in all of the benefits resulting from such construction, operation and maintenance, including its proportionate share of the water to be conserved thereby and the power to be generated and produced in connection therewith; provided, that nothing herein contained shall be deemed to confer upon said irrigation board, or upon any conservation district formed under the provisions of this act, the right to impair, or deprive any person, firm or corporation of, any vested right in or to the waters of any stream or streams proposed to be stored or diverted by said conservation district, without due process of law.

Upon presentation to it of a petition signed by the respective governing boards of two or more of said units praying for the formation of a conservation district, the irrigation board shall fix a time and place for the hearing of such petition. The secretary of the irrigation board shall cause notice of said hearing to be given by publication once a week for four successive weeks in a newspaper of general circulation published in each county wherein any part of said petitioning districts are situated, and also by mailing a written notice of such hearing to the governing boards of such other districts or political subdivisions of the state and to such private corporations, mutual ditch companies and mutual water companies as may be designated by the irrigation board. At the time fixed by the irrigation board for such hearing, or at such other time to which the hearing may be adjourned, the irrigation board shall hear and receive evidence in support of any objections which may be filed in opposition thereto, and shall also receive applications from other districts to become a part of such conservation district and form private corporations, mutual ditch companies or mutual water companies to participate in the benefits of such conservation district. If there shall be presented at such hearing a written objection or objections signed by the owners of more than one-half of the lands in any such unit district the signing of such petition by the governing board of such unit district shall be deemed to be nullified and the irrigation board shall have no power to include such unit district within the proposed conservation district.

The irrigation board shall include as a part of such conservation district the territory embraced within any district unit applying to be made part of the conservation district, which applying district shall be lawfully receiving or entitled to receive water from the same stream or streams whose waters are proposed to be stored or diverted by such conservation district, and shall admit to beneficial participation in said conservation district such private corporations, mutual ditch com-

panies or mutual water companies likewise lawfully receiving or entitled to receive water and applying to the irrigation board to be admitted to such participation. The application of any unit district or private corporation, mutual ditch company or mutual water company, not so lawfully receiving or entitled to receive water, to be included as a part of said conservation district or to be permitted to share in the benefits thereof, may be approved or rejected by the irrigation board in its discretion. Upon the final hearing of said matter, the irrigation board shall make an order approving said petition, as originally presented, or as modified by such order. Such order shall describe said conservation district by exterior boundaries when the lands therein lie in one body, or by naming the unit districts embraced therein when said lands do not lie in one body, and shall also designate the private corporations, mutual ditch companies or mutual water companies, entitled to participate in the benefits of the works proposed to be constructed by said conservation district. Upon the filing of such order with the irrigation board such conservation district shall be deemed to be created. A certified copy of the order creating such conservation district shall be filed in the office of the secretary of state, and a certified copy thereof, together with a map showing the boundaries of the district, shall be filed in the office of the county recorder of each of the counties in which any of the lands within the said district are situated. A properly certified copy of such order, together with the map attached thereto, shall be received in all the courts of this state as prima facie evidence of the organization of such district in compliance with the provisions of this act, and of the boundaries thereof.

After the formation of a conservation district as herein provided, any irrigation district, reclamation district, drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, theretofore existing and which was entitled to become a part of and unit in such conservation district at the time of its formation, and any such district or political subdivision of the state thereafter formed, any portion of the lands in which are receiving or entitled to receive water from the same stream or streams for the storage or diversion of whose waters said conservation district was formed, may, at any time prior to the making by the irrigation board of the order approving the apportionment as provided in section ten of this act, but not thereafter, file with the irrigation board a petition to be made a part of and unit in such conservation district. And any private corporation, mutual ditch company or mutual water company existing at the time of the formation of such conservation district, and at that time entitled to be admitted to participation in the benefits resulting from the construction of the works of such conversation district and any such private corporation, mutual water company or mutual ditch company thereafter organized and receiving or entitled to receive water from such stream or streams, may, at any time prior to the making by the irrigation board of the order approving the apportionment as provided in section ten of this act, but not thereafter, file with the irrigation board a petition to be admitted to such participation. Upon the filing of any such petition, within the time hereinbefore limited, the irrigation board shall fix a time and place for the hearing thereof and give such notice

of said hearing and cause such proceedings to be had and taken at such hearing and such order to be made and filed, and certified copies of such order to be filed, as in the case of a hearing upon a petition, for the original formation of a conservation district, and the right of such petitioning district or political subdivision to become a part of and unit in such conservation district or of such private corporation, mutual water company or mutual ditch company to be admitted to participation in the benefits resulting from the construction of the works thereof, shall be determined in the same manner as if such district or political subdivision or private corporation or mutual water company or mutual ditch company had presented its petition or application at the hearing of the petition for the original formation of such conservation district.

The irrigation board, or the governing body of any irrigation district, reclamation district, drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, constituting a unit of said conservation district, or any private corporation, or mutual water company or mutual ditch company admitted to participation in the benefits of such conservation district, may commence a proceeding in the superior court of any county wherein a portion of said conservation district is situated to determine the legality of the existence of said conservation district. The complaint in said proceeding shall describe the district by name, and the exterior boundaries thereof, when the lands therein lie in one body, or by naming the unit districts embraced therein when said lands do not lie in one body, and shall contain a prayer that such district be adjudged a legal conservation district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four successive weeks in a newspaper of general circulation published in each county wherein any part of such district is situated. Within thirty days after the last publication of said summons any person who may be interested may appear and answer said complaint in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed the court must render judgment as prayed for in the complaint. If any answer shall be filed within said period the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has, for five years prior to the commencement of such proceeding, been performing its functions as a conservation district in good faith. The proceeding under this section is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever against the state of California.

§ 7. **When works benefit overflowed lands.** When any of the works constructed under the provisions of this act serve the purpose of drainage, flood control or reclamation of swamp and overflowed lands within an irrigation or conservation district formed under the provisions of this act, the irrigation board may estimate the proportion of the cost of said construction, which may be properly charged to the lands benefited by such drainage, flood control or reclamation, and assessments may be levied in the manner herein provided upon the lands so benefited for

the purpose of paying such proportion of said cost of construction, together with a reasonable portion of the expenses of maintenance and repair of such works.

§ 8. **Rules and regulations.** The irrigation board may make and enforce any and all rules and regulations that in its opinion will promote the objects of this act, and may perform any act and exercise any power necessary to the accomplishment of the purposes herein expressed and full power is hereby conferred in the premises whether or not such powers are herein specially mentioned, and may sue and be sued in the same manner and with the same effect as a municipal corporation.

§ 9. **Member may conduct hearing.** For the purpose of performing any duty under this act the irrigation board may appoint one of its members to conduct any hearing or investigation. Such member shall make a written report of his proceedings and shall state the evidence introduced at any hearing and his conclusions thereon. Upon such report, or upon such further inquiry as the irrigation board shall deem proper, the irrigation board may pass upon and decide any question under consideration at said hearing or investigation. The decisions of the irrigation board shall be final except as to questions, the determination of which are vested in the courts by this act or by the constitution of this state or by the constitution of the United States.

§ 10. **Apportionment of water. Lease of surplus water. Special board of apportionment. Oath. Notice. Hearing. Rates. Control of distribution of water apportioned.** Prior to making any assessment, to provide funds for the construction or purchase of any project for the construction or purchase of which any conservation district shall have been formed, there shall be apportioned as hereinafter provided, to each constituent district or unit under such project the proportion to which it is entitled of all water stored or to be stored or diverted or to be diverted by such project for the irrigation of such conservation district, and of all power to be developed in connection therewith, which proportion of such water and power shall be forever applied to the purposes of said constituent district; provided, that any water or power that may be so apportioned and for which any constituent district or unit has not, to the full extent thereof, a beneficial use, may be leased by such district or unit, with the consent of the irrigation board, to any other territory within or without the said conservation district; the other districts or units, embraced in said conservation district to be entitled, however, to the first right to so lease such surplus water or power. The apportionment of water and power under this section shall be made by a special board of apportionment and confirmed by the irrigation board. The members of such special board of apportionment shall be three in number and shall be appointed by the irrigation board, subject, however, to the approval of two-thirds of the members of the advisory board hereinafter provided for. The members of such special board of apportionment shall be disinterested persons having no interest in any land within the conservation district within which such apportionment is to be made and not residing within such district. Before entering upon his duties each of the members of said special

board of apportionment shall take and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly; that he does not reside therein, and that he will perform the duties of a member of such board to the best of his ability. Said special board of apportionment shall determine, define and apportion to the several districts or units within said conservation district, and to the private corporations, mutual water companies and mutual ditch companies admitted to share in the benefits thereof, the amount and extent of the water to be produced, stored or diverted for the project contemplated by said conservation district and the amount and extent of the power to be produced or generated in connection therewith, and shall likewise determine, define and apportion the cost of the project, and shall make a report thereof to the irrigation board. Upon receiving such report the irrigation board shall fix a date for the hearing thereof, and notice to all persons in such conservation district shall be given by publication once a week for four successive weeks in a newspaper of general circulation published in each of the counties in which any portion of the said district is situated. Such hearing shall be held upon a date not less than sixty nor more than ninety days after the first publication of said notice, and affidavits of the publication of said notice in the manner herein provided shall be made and filed with the irrigation board before such hearing. In addition to the publication of such notice the secretary of the irrigation board shall mail a copy thereof to the governing boards of such other districts or political subdivisions of the state and to such private corporations, mutual ditch companies and mutual water companies as may be designated by the irrigation board. At the time set for the hearing the irrigation board shall hear and receive evidence in support of objections which may be presented to the apportionment so made, and shall thereupon make its order approving, modifying or rejecting such apportionment. Any person aggrieved by the order of the irrigation board may commence an action in the superior court of any county in which any part of said conservation district is interested to have said apportionment corrected, modified or annulled. Such action must be commenced within thirty days after said order has been made and filed in the office of the secretary of the irrigation board, and if not so commenced no action or defense shall thereafter be maintained attacking the legality of said apportionment in any respect.

All works constructed at the expense of any irrigation district created under this act, or for any component unit of a conservation district, or for which the same is assessed or charged for the repayment of moneys expended for construction, shall forever be devoted to the purposes of such constituent district or unit under the administration of the irrigation board. No rates shall be charged by an irrigation district formed under the provisions of this act or by a conservation district for the use of water for irrigation therein or for power developed in connection therewith, except for the just proportion of such irrigation district or the units of such conservation district, or of the private corporations, mutual water companies or mutual ditch companies entitled to or receiving the benefits of the construction and operation of the works of said conservation district, for the expenses of the govern-

ing bodies and employees thereof and of the maintenance, operation, repair and supervision of the works constructed for the benefit of such irrigation district or conservation district, and except for the repayment of moneys appropriated and paid as the cost of construction of the said works and the payment of bonds issued therefor and the interest thereon.

It shall be the duty of the irrigation board, and said board shall have power to do all things necessary to that end, to control and supervise the distribution of the water and power apportioned as herein provided to the units of a conservation district and to the private corporations, mutual water companies and mutual ditch companies admitted to share in the benefits thereof.

§ 11. **Power to contract for repayment of money expended.** The irrigation board shall have power to contract with the United States and with the state of California for the repayment of moneys appropriated or expended in the construction of reservoirs, canals, ditches or other works necessary or convenient for any of the purposes herein mentioned. Such repayment shall be made from assessments upon the lands benefited by such works, or the proceeds of bonds issued thereon, from payments made by private corporations, mutual ditch companies or mutual water companies contributing their proportion of the cost of constructing, operating and maintaining such works as provided in section six *b* of this act, or from revenues derived by the irrigation board for water or power leased or sold by the irrigation board as provided in this act, or from either, all or any of said methods of repayment. The irrigation board may also deposit with the United States and with the state, bonds, notes, contracts, leases, agreements or other obligations for the payment of money, issued or executed by irrigation districts formed under the provisions of this act, or by conservation districts, or the component units of such conservation districts, the proceeds to be applied to said repayment upon such terms as may be agreed upon between the irrigation board and the United States or the state of California.

§ 12. **Power to purchase land, etc., needed.** The irrigation board shall have power to acquire within or without any irrigation district created under this act or any conservation district, from persons, associations or private corporations, by purchase, condemnation or other lawful means, any land, water, water rights, reservoirs, flumes, ditches, power lines, telegraph or telephone lines or other works or parts thereof necessary or convenient for the purposes herein mentioned, or necessary for the carrying out of any of the projects formed hereunder.

§ 13. **Advisory board.** The chairman or presiding officers of the governing bodies of the respective irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, constituting units of a conservation district created under this act, and of the private corporations, mutual water companies and mutual ditch companies contributing to the cost of constructing, operating and maintaining the works of such conservation district, shall be and constitute an advisory board to consult with the irrigation board, and such advisory board shall perform

such executive and administrative functions as may be determined from time to time by the irrigation board.

§ 14. Power to make contracts. Apportionment of revenues. Contracts between districts, etc. The irrigation board, except where special power is herein elsewhere conferred, shall have power to make, execute and carry out any agreements or contracts for the performance of any act or the construction of any works provided for in this act, and may make contracts for the sale or rental of unapportioned water or power for periods not to exceed forty years, upon such terms as the irrigation board shall prescribe. All revenues received by the irrigation board from such sales or rentals shall be apportioned to the districts constituting component parts of such conservation district and to the private corporations, mutual water companies and mutual ditch companies contributing to the construction of the project from which such revenues are derived. Such apportionment shall be made in the ratio of the respective amounts of assessments levied or charges made for the construction of the works in connection with which such revenues are derived.

For the purpose of carrying this act into effect and of accomplishing the ends and objects herein expressed, and the development and utilization of the water resources of this state, conservation districts, irrigation districts, formed under the provisions of this act, reclamation districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, and private corporations organized for the purpose of selling or distributing water or electric power for domestic, irrigation, manufacture, or other beneficial uses and purposes, and mutual water companies and mutual ditch companies, may enter into contracts or agreements with each other or with other districts, political subdivisions, corporations, associations or persons, for the development, appropriation or storage of water and the apportionment and distribution thereof, and the division, distribution and payment of the cost and expense of such development, appropriation, storage, apportionment and distribution. And every and all such contract or contracts shall be valid and binding, in accordance with their terms and provisions respectively; provided, however, that before any such contract or contracts shall go into force or effect or become binding for any purpose, the same shall be submitted to and approved by the irrigation board; and provided, further, that where any such contract relates to or affects the sale, rental or distribution of water or electric power, or the beneficial use of water, by a public utility, the same shall, before it goes into force or effect or becomes binding, be submitted to and approved by the railroad commission of the state of California. And all such contracts approved as herein provided, shall be binding and valid for all purposes, either in perpetuity or such term or terms as shall be specified or agreed upon therein or in the order or orders approving the same.

The provisions of this section are in aid of and in addition to other provisions of this act, and the same shall be construed and considered as so in aid of and in addition to, and not limited by or restricted by any of the other terms or provisions of this act. Nothing in this section contained shall be construed to affect or impair the organization or rights of mutual water companies or mutual ditch companies or the rights of the stockholders or members of such companies.

§ 15. Surveys, etc., of conservation district. Commissioners to assess land. Assessment-roll. Hearing. Objections. Approval of assessment. Lien. Annual levy. Additional levy. Surplus. Duties of auditor and tax collector. Moneys received under contracts. Delinquent taxes. The irrigation board shall, upon the organization of any conservation district as in this act provided, proceed to make or cause to be made, all necessary examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water and the generation of electric power in connection therewith, and the sale and distribution thereof as may be necessary or requisite to enable said board to ascertain and estimate the requirements and works necessary as aforesaid for the purposes of said conservation district and the probable cost and expense thereof, and in that connection may use and adopt all previous estimates, surveys and reports it may have collected adapted to that purpose, and may employ all necessary engineers and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project and may issue warrants therefor and same shall bear interest from date of issue at the rate of six per cent per annum until paid, and shall be payable out of the funds of said district, and may be included in any bond issue authorized for the purposes of said district.

Such estimate as is above provided for shall be in such form as shall be approved by said irrigation board and shall be entered in the minutes of said board and shall constitute a part of the records of said board, and the same, or a copy thereof, certified by the secretary of said board, shall be admissible as evidence in any proceeding before any court, commission or tribunal of this state wherein the matters therein set forth shall be admissible in evidence.

Whenever, for any of the purposes of this act, the irrigation board shall deem it necessary for the purposes of said district, or the levying of an assessment upon the property therein, or the issuance of bonds by said district, said board shall appoint three commissioners for such purpose or purposes. Such commissioners shall have no interest in any land in the district, either directly or indirectly, and each commissioner before entering upon his duties shall make and subscribe an oath that he is not in any manner interested directly or indirectly in any land in said district, and that he will perform the duties of commissioner to the best of his ability. Thereupon said commissioners shall proceed separately as to each unit within said district to view and assess upon the land within said district a sum sufficient to cover said estimated amount and shall apportion the same according to the benefits which will accrue to each unit within said district, and separately as to each tract of land within said unit. Such benefits to be estimated according to the benefits which will accrue to each tract of land in such unit by reason of the expenditure of said estimated sum, and shall estimate the same in gold coin of the United States.

Said commissioners shall prepare and certify a roll on which they shall state the name and address of the owner of each parcel of land in such unit, or if the name or address of any owner is unknown, then, that fact; also a description of each parcel of land by legal subdivisions or boundaries, and the total amount assessed against each parcel of land so de-

scribed. No mistake in the name of the owner, or supposed owner of any parcel of land, shall invalidate the apportionment or assessment. A separate roll shall be made for the lands in each county where such unit includes land in more than one county. When completed said roll or rolls shall be filed with the irrigation board and certified copies of the particular roll for each county shall be filed with the county recorder of any county in which any lands within said unit may be, and each roll shall be open for inspection by the public for at least thirty days.

The irrigation board shall appoint a time and place not less than thirty days after said roll has been filed with said recorder or recorders when and where it will meet, within said conservation district for the purpose of hearing objection to said assessment and the apportionment thereof and notice of such hearing shall be published at least once a week for two successive weeks in some newspaper published in each county in which any lands within said district may be. At any time before or at the original date of such hearing, any person interested in any real estate upon which any charge has been apportioned and assessed, may file in the office of the secretary of said irrigation board written objections thereto, stating the grounds of such objections, which said statements shall be verified by the affidavit of such person or some other person who is familiar with the facts. Said irrigation board may postpone such hearing from time to time. At such hearing the irrigation board shall hear such evidence as may be offered touching the correctness of such assessment or the manner of its apportionment and may modify or amend the same and may reapportion all or any part of the entire assessment. No assessment or apportionment shall be increased except upon the hearing of objections thereto or after personal notice or notice by mail to the owner of the land upon which said increase is made. Said irrigation board must make and enter in its minutes an order approving said assessment and apportionment as finally fixed, and the decision of said irrigation board shall be final, and thereafter said assessment and apportionment shall be conclusive evidence of the validity of said assessment and apportionment, and no action or defense shall ever be maintained attacking the same in any respect. And the records of said irrigation board, or a copy thereof certified by its secretary, shall be received in evidence in all or any of the courts of this state, or before any board or tribunal authorized to hear or consider any matter wherein the same shall be admissible as evidence. No change shall be made in said assessment or apportionment after the consideration, approval and fixing thereof by said irrigation board and all assessments upon the property of said district thereafter shall be levied in accordance therewith and consistent with the apportionment of benefits therein provided for and fixed, and if any assessments are called for or required in addition to the original amount estimated and apportioned for the purposes of said district, such additional amount shall be assessed, levied and raised in accordance with said apportionment and assessment of benefits so fixed in the first instance by said irrigation board. A certified copy of such assessment and apportionment roll as finally approved shall be filed in the offices of the county recorder of each county in which any land within said district is situated. Such assessment and apportionment shall thereafter constitute a first lien upon the land

affected thereby until the full amount thereof is paid or until all bonds of the district issued thereon, together with the accrued interest, shall have been fully paid. The said irrigation board shall on the first Tuesday in May following the fixing and approval of said assessment and apportionment therein provided for, and annually thereafter on said date, levy an assessment, sufficient to raise the annual interest on the outstanding bonds of said district, and in any year in which any bonds shall fall due must increase such assessment to an amount sufficient to pay the principal of the outstanding bonds as they mature; also sufficient to pay in full all sums that may become due from the district before the time of collection of the next annual assessment, including an amount sufficient to pay in full the amount of any contract or obligation of the district which may come due during said year or may have been reduced to judgment. And to provide for and maintain a fund out of which the current and contingent obligations of said district can be paid in cash as they mature. In addition to the amounts estimated as necessary for the purposes aforesaid, a further levy of fifteen per cent additional shall be included and levied for the purposes of meeting any additional amounts that may be required on account of delinquencies and to insure the payment of all of the bonded indebtedness, including the interest thereon and other obligations of said district at maturity. Whenever there is a surplus in the funds of said district over and above all requirements as herein specified for the payment of the bonded indebtedness and interest thereon and accrued obligations of said district, such a surplus may be used and applied in retiring the outstanding bonds or any thereof of said district. The secretary of the irrigation board must compute and enter in a separate column of the assessment-book the respective sums in dollars and cents to be paid as an assessment upon the property therein enumerated. In so doing, said secretary shall enter the names of the owners of such lands and the descriptions thereof in accordance with the last assessment-roll of the county in which the said lands are situated. Such assessment must be so levied and computed as to be in accordance with the apportionment and assessment of benefits herein provided for and so that all lands within said district shall be assessed and required to pay in accordance therewith.

The secretary of said board shall forthwith deliver a certified copy of that portion of said assessment so directed to be entered by him, so far as it applies or appertains to any land within any county situated within said district to the county auditor of such county, and such auditor shall accept and receipt for the same and thereupon it shall be the duty of said auditor to include said assessment as an assessment against each parcel or tract of land therein described. It shall be the duty of said auditor to examine and ascertain as to any errors or discrepancies that may exist in said roll as to the ownership of or the descriptions of land as applied to any owner or owners thereof as compared with the assessment-roll of the said county for such year, and if any such difference or discrepancies are found, it shall be the duty of said auditor to correct the same accordingly so that the said roll as to ownerships and descriptions of land and assessments thereof shall correspond to the assessment-roll of said county and for such year. And

it shall be his duty to audit, enter and certify the same to the tax collector of said county for collection in the same manner and form as county, school district and other taxes are included and certified by him to such tax collector, and all such assessments shall constitute a first lien upon the lands affected thereby as hereinbefore provided.

Upon receipt of the same from the auditor of such county it shall be the duty of the tax collector of said county to include the same as a separate entry and charge against the land therein described and to collect the same with the county, school district and other taxes so required to be collected by such county tax collector and to keep and deposit such district taxes in a separate fund, and when the same is collected it shall be the duty of such tax collector to pay the same over to the treasurer of such county at the same time and in the same manner as other taxes collected by him are paid over to such treasurer, and it shall be the duty of such treasurer to receive the same as other taxes are received by him and after receipt thereof to keep the same in a separate fund and upon receipt of same, or any part thereof, it shall be the duty of such county treasurer within thirty days thereafter to pay the same and all thereof to the treasurer of the state of California, who shall receive and keep the same and deposit the same in a separate fund to the credit of the said district, and to be paid out by him upon the order and approval of the said irrigation board.

All moneys received under contracts, leases or other arrangements by such conservation district from any canal companies, mutual or other water companies, reclamation districts, or from any corporations, individuals, or other sources not herein otherwise provided for shall be collected by said irrigation board and by it deposited with the state treasurer, and thereafter to be disbursed as provided as to funds of such district under the order and direction of such irrigation board for the purposes and obligations of said district, including the payment and retirement of outstanding bonds with interest thereon.

From and after the time of the filing of such assessment-roll of such district with the auditor of any county the taxes therein enumerated, levied and assessed, shall be regarded and treated as are the other taxes of said county or the school districts thereof and the same shall be included in and considered a part of such taxes and the same shall become delinquent at the same time and in the same manner as such other taxes, and with respect to any delinquency or delinquent notices the same shall become delinquent and notice thereof shall be published with and at the same time and in the same manner as other delinquent taxes and the same shall be similarly treated for all purposes of notice and sale thereof for such delinquent taxes, and shall be subject to redemption from such delinquent district taxes at the same time and in the same manner and through the same officials as are such other taxes. And any and all charges and penalties in connection with such delinquency and interest thereon and penalties in connection therewith shall be similarly charged and collected, and the amounts so collected on account of any such delinquent taxes or interest or penalties thereon shall be received by the county treasurer and paid over to the state treasurer in the same manner as is hereinabove provided and in the event of the sale of any property for delinquent taxes of such counties

or other delinquent taxes, said district taxes shall be included therein and said property shall be sold therefor in connection with and including such other taxes, and upon a redemption thereof or upon a sale of said lands the said district taxes shall be included therein and together with interest and penalties thereon the same shall be received and paid over to the county treasurer, and by him paid over to the state treasurer, as hereinbefore provided.

§ 16. Issue of bonds. Estimate of amount necessary. Examination by engineer. Special election. Evidence of ownership. Notice. Conduct of election. Bonds. Coupons. Sale of bonds. Determination of validity. Warrants. Legal investments. Additional bonds. At any time after the irrigation board shall have made the examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water, and for the other purposes enumerated in this act, and after the same has been entered in the minutes of said board and shall have also had assessed and apportioned upon the lands in said conservation district the charges and benefits and apportionments provided for in this act, and after such apportionment and assessment-roll shall have been finally fixed and approved by the said board, and after the same has been entered in the minutes of the said board must, as soon as may be practicable, proceed and issue the bonds of said district for the purposes aforesaid.

The said board shall, in connection with the previous estimates made and adopted by it, estimate the amount of money necessary to be raised by such bond issue for the purposes of said district, as aforesaid, and shall ascertain and determine the same and enter its order to that effect in the minutes of said board. And whenever thereafter the construction fund has been exhausted by expenditures herein authorized, and it is necessary to raise additional money for such purposes, it shall be the duty of said board to estimate and determine the amount of money necessary to be raised for such additional purposes.

For the purposes of such bond issue, or additional bond issue, the said board shall be authorized to employ engineers and other assistants and make all such further examinations and estimates as may be necessary, to fix and determine such matters and the conclusion and estimates of said board shall be entered in its minutes. Said irrigation board shall by order entered in its records order a special election to be held at such places in said district as shall be designated by said irrigation board, and at least one such place shall be designated as a voting place in each unit of said conservation district at which said election there shall be submitted to the owners of land in said district the question of whether or not the bonds of said district shall be issued in the amount specified in the order of said board, and which amount shall be stated in the order for such special election. For all purposes of this act relating to signing petitions and voting at any election, and for all other purposes where the question of title to land claimed to be owned by such voter or owner is involved, the equalized assessment-roll for the year last preceding in each county wherein any land of the said district is situated, shall be sufficient evidence of ownership of lands in the district. Guardians, executors, administrators and other persons holding land in

a trust capacity under appointment of court may sign any such petition and may vote without obtaining any special authority therefor. Said irrigation board shall at the time of calling the said election designate in its order the voting places at which election shall be held and where votes shall be cast and shall designate three land holders of the district to act as a board of election at each voting place.

Notice of such special election must be given by the irrigation board by posting notice thereof in at least three public places in each unit of the district at least twenty days prior thereto, and also by publishing such notice once a week for the same length of time in some newspaper of general circulation, published in each county in which any portion of said district may be situated, or if there be no newspaper published in any one of such counties, then in each county wherein such newspaper is published; and such notice must specify the time and place of holding said election and the aggregate face value of bonds proposed to be issued and the names of three land holders of said district to act as a board of election at each polling place. Affidavits of the publication and posting of such notice must be filed with the clerk of said irrigation board.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each acre of real estate owned by him in the district, such ownership to be determined from the next preceding assessment-roll of the county or counties in which the lands of the district are situated and the irrigation board shall, prior to the election, cause to be prepared and certified and furnished to the board of election at each polling place, a true and correct copy of each of said next preceding assessment-rolls so far as such assessment-roll applies to any lands within such district, which said certified rolls shall be used by the board of election in determining the number of votes each voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the vote of the estates represented by them. No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election.

The ballots cast at such election shall contain the words "bonds, yes" or "bonds, no" and also the name of the person casting the ballot, with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the name of each voter, and, if the ballots be cast by proxy, the name of the person casting it and the number of votes cast by each and whether the same be cast for or against the issuing of bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present, voting individually, may appoint in his place any landholder in the district. Each member of said board of election must, before entering upon his duties, take and subscribe an official oath, to faithfully perform his duties as an officer of such election, which oath may be administered by an officer authorized to administer oaths, or by a landholder in the district.

The polls shall be kept open from ten o'clock A. M. of the day of election until five o'clock P. M. of that day.

At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result, and shall forward a certificate showing such result and the number of votes cast for and against the issuing of the bonds to the irrigation board and shall also deliver to the said irrigation board all ballots cast at such election and all documents and papers used at such election.

Said irrigation board shall, upon the receipt of such canvass and declaration of the result from the said board of election, proceed to examine the same and shall ascertain and declare the result as shown by such canvass and declaration, and shall enter an order in its minutes that the said proposition for the issuance of said bonds has been carried or defeated, as the case may be.

Forthwith, upon the declaration of the result of said election by said irrigation board, the secretary of said board shall make a certified copy of the order of said board, declaring the result of said election, and shall forward said certified copy or copies to the recorder or recorders of the counties in which any land of said conservation district may be situated, and the same shall forthwith be filed and recorded in said recorder or recorders' office, and shall impart notice to all interested persons as to the result of said election.

Any person owning property within the said district, liable to assessment, may contest such election, by filing a written contest specifying the grounds of his objections thereto, with said irrigation board, said written contest to be filed within thirty days after the declaration of the result of said election by said irrigation board, and if no such contest and objections be filed within thirty days, no such contest and objections shall thereafter be received or filed. Such written contest shall specify the ground or grounds of contest to said election, and upon the filing of the same with said irrigation board shall expeditiously set the said contest for hearing, and shall have the right to postpone the hearing for such time as may be necessary, but not otherwise, and shall expeditiously hear and determine the same. For the purposes of such hearing the board may by subpoena, signed by the secretary, under its seal, compel the attendance of witnesses and the production of evidence. Disobedience of such subpoena or of any lawful order of the board in the premises shall constitute a contempt of the authority of the board punishable by the board in accordance with title five of part three, of the Code of Civil Procedure, and shall also constitute a misdemeanor under section one hundred sixty-six of the Penal Code. Said irrigation board shall, upon the conclusion of said hearing of said contest, proceed forthwith to enter its order and decision thereon. Such decision on the part of said irrigation board shall be final, conclusive and binding upon all parties interested as to validity and as to result of such election and shall be subject to review only in event suit is brought by the said district or by some person or corporation or association authorized to bring the same to determine the question of the validity of the said bond issue, and in the determination and adjudication of the question of the validity of said bond issue, as hereinafter specified, the court may review and consider the validity of said election for the issuance of said bonds, but in such action the certificate and determination of said irrigation board shall be received and accepted

by the court as prima facie evidence of the result as to the validity of said election and the regularity of the canvassing, counting and return of the votes cast at said election. If a majority of the votes cast at such an election is in favor of the issuance of bonds, the irrigation board after canvassing the returns and declaring the result of said election shall cause bonds in the amount stated in the order for the election to be issued, executed and delivered to the state treasurer of the state of California. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the irrigation board and attested by the secretary thereof, and shall be numbered consecutively in the order of their maturity, and shall bear interest at the rate not exceeding six per centum per annum, payable semi-annually on the first day of January and the first day of July in each year, at the office of said state treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the state treasurer of the state of California.

The principal of said bonds shall be made payable, by an order entered into the minutes of the irrigation board, upon the first day of July or the first day of January, and in such years as the irrigation board may prescribe. Said bonds shall be payable serially within forty years from their date in the manner following, to wit:

Not less than five per cent of the aggregate face value of the bonds issued shall be payable each year, beginning not later than the twentieth year from their date until the whole amount of said bonds have been paid.

Said irrigation board, subject to the provisions of this act, is authorized and empowered to take all such actions and make all such orders as may be necessary in connection with the issuance, sale and disposition of said bonds.

Said bonds may be substantially in the following form:

UNITED STATES OF AMERICA.

STATE OF CALIFORNIA.

No. —— $——

(Name of district) Conservation District No. ——, for value received, hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the state treasurer of the state of California, on the first day of ——, 19—, the sum of $——, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of —— per cent per annum, payable at the office of said treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of —— bonds of like tenor and effect, except as to denomination and maturity, numbered from —— to ——, inclusive, amounting in the aggregate to $——, issued in accordance with the California irrigation act, pursuant to an election held in said district on the —— day of ——, 19—, authorizing its issuance, and is based upon and secured by a lien upon and a valuation and apportionment levied on the land in said dis-

trict and filed in the office of the state irrigation board on the —— day of ——, 19—. And the said district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all of the acts and conditions and things required by law to be done precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of such district bonds.

In testimony whereof, the said conservation district, acting by and through the irrigation board of the state of California, has caused this bond to be signed by the president of said irrigation board, and attested by the secretary thereof, with his seal of office affixed, this —— day of ——, 19—.

By —— ——,
President of said board.

Attest: —— ——,
Secretary of said board.

And the interest coupon may be substantially in the following form:

No. —— $——

The state treasurer of the state of California will pay to the holder hereof on the —— day of ——, 19—, at his office in the city of Sacramento, state of California, the sum of $—— in gold coin of the United States out of the funds of —— district —— for interest on bond of said district numbered ——.

—— ——,
State treasurer.

The state treasurer shall place the bonds prepared pursuant to this act to the credit of the district and the irrigation board may in its discretion direct the state treasurer to sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the state treasurer by publication at least once a week for three weeks in a newspaper of general circulation published in the city of Sacramento, and also one or more papers in said district, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the state treasurer shall open the bids and award the bonds to the highest responsible bidder. He may reject any and all bids. Any sale by the state treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the state treasury to the credit of said district, and a proper record of such transaction shall be made upon his books. At any time after said bonds shall have been delivered to the state treasurer, an action may be commenced in the superior court of the county within which is situated the largest area of land within said district by the irrigation board in the name of the

district or by any unit of said district or by any person owning property within the said district liable to assessment. Such action shall be brought and prosecuted against the lands in said district and all persons owning the same or interested therein, to have it determined as to whether or not said bonds when sold will be a legal obligation of such district. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for three weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days after entry of judgment and said appeal and the hearing thereof shall be expedited in said court. Judgment for the plaintiff in such proceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons.

The irrigation board may draw warrants upon the state treasurer against the funds provided by sale of said bonds.

The money derived from the sale of any of said bonds shall be received by the state treasurer and shall by him be safely kept and placed to the credit of said district in a fund to be designated in the name of such district for the said district and may be drawn and expended upon warrants drawn against said fund as in this act provided.

Bonds of any district issued pursuant to the provisions of this act which are investigated and approved by any commission or officer now or hereafter authorized by the laws of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state, or of any county, city, city and county or other municipal or corporate body within the state having or holding funds which they are allowed by law to invest or loan.

If after said district has authorized the issuance and sale of a series of bonds under this act, it shall become necessary so to do, an additional bond issue or series of bonds may be authorized and sold and all proceedings shall be had and taken, and all procedure in connection with said second issue or series of bonds shall be had and taken in accordance with the provisions of this act as to the first issue of bonds; provided, that said second issue or series of bonds shall not be issued so as to in any manner interfere with the lien or security of the payment of the first issue of bonds, and said second issue or series of bonds shall, as to the lien thereof and as to the security of same, be subsequent and subordinate and subject to such first bond issue.

§ 17. Surveys, etc., of irrigation district. Commissioners to assess land. Assessment-roll. Hearing. Objections. Approval of assessment. Lien. Annual levy. Additional levy. Surplus. Duties of auditors and tax collectors. Moneys received under contracts. Delinquent taxes. The irrigation board shall, upon the organization of any irrigation district as in this act provided, proceed to make or cause to be made, all necessary examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water and the generation of electric power in connection therewith, and the sale and distribution thereof as may be necessary or requisite to enable said board to ascertain and estimate the requirements and works necessary as aforesaid for the purposes of said irrigation district and the probable cost and expense thereof, and in that connection may use and adopt all previous estimates, surveys and reports it may have collected adapted to that purpose, and may employ all necessary engineers and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project and may issue warrants therefor and same shall bear interest from date of issue at the rate of six per cent per annum until paid, and shall be payable out of the funds of said district, and may be included in any bond issue authorized for the purposes of said district.

Such estimate as is above provided for shall be in such form as shall be approved by said irrigation board and shall be entered in the minutes of said board and shall constitute a part of the records of said board, and the same, or a copy thereof, certified by the secretary of said board, shall be admissible as evidence in any proceeding before any court, commission or tribunal of this state wherein the matters therein set forth shall be admissible in evidence.

Whenever, for any of the purposes of this act, the irrigation board shall deem it necessary for the purposes of said irrigation district, or the levying of an assessment upon the property therein, or the issuance of bonds by said irrigation district, said board shall appoint three commissioners for such purpose or purposes. Such commissioners shall have no interest in any land in the irrigation district, either directly or indirectly, and each commissioner before entering upon his duties shall make and subscribe an oath that he is not in any manner interested directly or indirectly in any land in said irrigation district, and that he will perform the duties of commissioner to the best of his ability. Thereupon said commissioners shall proceed to view and assess upon the land within said irrigation district a sum sufficient to cover said estimated amount and shall apportion the same according to the benefits which will accrue to each tract of land within said irrigation district, such benefits to be estimated according to the benefits which will accrue to each tract of land in such irrigation district by reason of the expenditure of said estimated sum, and shall estimate the same in gold coin of the United States.

Said commissioners shall prepare and certify a roll on which they shall state the names and address of the owner of each parcel of land in such irrigation district, or if the name or address of any owner is unknown, then, that fact; also a description of each parcel of land by legal subdivisions or boundaries, and the total amount assessed

against each parcel of land so described. No mistake in the name of the owner, or supposed owner of any parcel of land, shall invalidate the apportionment or assessment. A separate roll shall be made for the lands in each county where such irrigation district includes land in more than one county. When completed said roll or rolls shall be filed with the irrigation board and certified copies of the particular roll for each county shall be filed with the county recorder of any county in which any lands within said irrigation district may be, and each roll shall be open for inspection by the public for at least thirty days.

The irrigation board shall appoint a time and place not less than thirty days after said roll has been filed with said recorder or recorders when and where it will meet, within the county in which the greater portion of said irrigation district is situated for the purpose of hearing objection to said assessment and the apportionment thereof and notice of such hearing shall be published at least once a week for two sucessive weeks in some newspaper published in each county in which any lands within said irrigation district may be. At any time before or at the original date of such hearing, any person interested in any real estate upon which any charge has been apportioned and assessed, may file in the office of the secretary of said irrigation board written objections thereto, stating the grounds of such objections, which said statements shall be verified by the affidavit of such person or some other person who is familiar with the facts. Said irrigation board may postpone such hearing from time to time. At such hearing the irrigation board shall hear such evidence as may be offered touching the correctness of such assessment or the manner of its apportionment and may modify or amend the same and may reapportion all or any part of the entire assessment. No assessment or apportionment shall be increased except upon the hearing of objections thereto or after personal notice or notice by mail to the owner of the land upon which said increase is made. Said irrigation board must make and enter in its minutes an order approving said assessment and apportionment as finally fixed, and the decision of said irrigation board shall be final, and thereafter said assessment and apportionment shall be conclusive evidence of the validity of said assessment and apportionment, and no action or defense shall ever be maintained attacking the same in any respect. And the records of said irrigation board, or a copy thereof certified by its secretary, shall be received in evidence in all or any of the courts of this state, or before any board or tribunal authorized to hear or consider any matter wherein the same shall be admissible as evidence. No change shall be made in said assessment or apportionment after the consideration, approval and fixing thereof by said irrigation board and all assessments upon the property of said irrigation district thereafter shall be levied in accordance therewith and consistent with the apportionment of benefits therein provided for and fixed, and if any assessments are called for or required in addition to the original amount estimated and apportioned for the purposes of said irrigation district, such additional amount shall be assessed, levied and raised in accordance with said apportionment and assessment of benefits so fixed in the first instance by said irrigation board. A certified copy of such assessment

and apportionment roll as finally approved shall be filed in the office of the county recorder of each county in which any land within said irrigation district is situated. Such assessment and apportionment shall thereafter constitute a first lien upon the land affected thereby until the full amount thereof is paid or until all bonds of the irrigation district issued thereon, together with the accrued interest, shall have been fully paid. The said irrigation board shall on the first Tuesday in May following the fixing and approval of said assessment and apportionment therein provided for, and annually thereafter on said date, levy an assessment, sufficient to raise the annual interest on the outstanding bonds of said irrigation district, and in any year in which any bonds shall fall due must increase such assessment to an amount sufficient to pay the principal of the outstanding bonds as they mature; also sufficient to pay in full all sums that may become due from the irrigation district before the time of collection of the next annual assessment, including an amount sufficient to pay in full the amount of any contract or obligation of the irrigation district which may come due during said year or may have been reduced to judgment, and to provide for and maintain a fund out of which the current and contingent obligations of said irrigation district can be paid in cash as they mature. In addition to the amounts estimated as necessary for the purposes aforesaid, a further levy of fifteen per cent additional shall be included and levied for the purposes of meeting any additional amounts that may be required on account of delinquencies and to insure the payment of all of the bonded indebtedness, including the interest thereon and other obligations of said irrigation district at maturity. Whenever there is a surplus in the funds of said district over and above all requirements as herein specified for the payment of the bonded indebtedness and interest thereon and accrued obligations of said irrigation district, such a surplus may be used and applied in retiring the outstanding bonds or any thereof of said irrigation district. The secretary of the irrigation board must compute and enter in a separate column of the assessment-book the respective sums in dollars and cents to be paid as an assessment upon the property therein enumerated. In so doing, said secretary shall enter the names of the owners of such lands and the descriptions thereof in accordance with the last assessment-roll of the county in which the said lands are situated. Such assessment must be so levied and computed as to be in accordance with the apportionment and assessment of benefits herein provided for and so that all lands within said irrigation district shall be assessed and required to pay in accordance therewith.

The secretary of said board shall forthwith deliver a certified copy of that portion of said assessment so directed to be entered by him, so far as it applies or appertains to any land within any county situated within said irrigation district to the county auditor of such county, and such auditor shall accept and receipt for the same and thereupon it shall be the duty of said auditor to include said assessment as an assessment against each parcel or tract of land therein described. It shall be the duty of said auditor to examine and ascertain as to any errors or discrepancies that may exist in said roll as to the ownership of or the descriptions of land as applied to any owner or owners thereof as compared

with the assessment-roll of the said county for such year, and if any such difference or discrepancies are found, it shall be the duty of said auditor to correct the same accordingly so that the said roll as to ownerships and descriptions of land and assessments thereof shall correspond to the assessment-roll of said county and for such year. And it shall be his duty to audit, enter and certify the same to the tax collector of said county for collection in the same manner and form as county, school district and other taxes are included and certified by him to such tax collector, and all such assessments shall constitute a first lien upon the lands affected thereby as hereinbefore provided.

Upon receipt of the same from the auditor of such county it shall be the duty of the tax collector of said county to include the same as a separate entry and charge against the land therein described and to collect the same with the county, school district and other taxes so required to be collected by such county tax collector and to keep and deposit such irrigation district taxes in a separate fund, and when the same is collected it shall be the duty of such tax collector to pay the same over to the treasurer of such county at the same time and in the same manner as other taxes collected by him are paid over to such treasurer, and it shall be the duty of such treasurer to receive the same as other taxes are received by him and after receipt thereof to keep the same in a separate fund and upon receipt of same, or any part thereof, it shall be the duty of such county treasurer within thirty days thereafter to pay the same and all thereof to the treasurer of the state of California, who shall receive and keep the same and deposit the same in a separate fund to the credit of the said district, and to be paid out by him upon the order and approval of the said irrigation board.

All moneys received under contracts, leases or other arrangements by such irrigation district from any canal companies, mutual or other water companies, reclamation districts, or from any corporations, individuals, or other sources not herein otherwise provided for, shall be collected by said irrigation board and by it deposited with the state treasurer, and thereafter to be disbursed as provided as to funds of such irrigation district under the order and direction of such irrigation board for the purposes and obligations of said irrigation district, including the payment and retirement of outstanding bonds with interest thereon.

From and after the time of the filing of such assessment-roll of such irrigation district with the auditor of any county the taxes therein enumerated, levied and assessed, shall be regarded and treated as are the other taxes of said county or the school districts thereof and the same shall be included in and considered a part of such taxes and the same shall become delinquent at the same time and in the same manner as such other taxes, and with respect to any delinquency or delinquent notices the same shall become delinquent and notice thereof shall be published with and at the same time and in the same manner as other delinquent taxes and the same shall be similarly treated for all purposes of notice and sale thereof for such delinquent taxes, and shall be subject to redemption from such delinquent irrigation district taxes at the same time and in the same manner and through the same officials as are such other taxes. And any and all charges and penalties in connection therewith shall be similarly charged and collected, and the amounts so col-

lected on account of any such delinquent taxes or interest or penalties thereon shall be received by the county treasurer and paid over to the state treasurer in the same manner as is hereinabove provided, and in the event of the sale of any property for delinquent taxes of such counties or other delinquent taxes, said irrigation district taxes shall be included therein and said property shall be sold therefor in connection with and including such other taxes, and upon a redemption thereof or upon a sale of said lands the said irrigation district taxes shall be included therein and together with interest and penalties thereon the same shall be received and paid over to the county treasurer, and by him paid over to the state treasurer, as hereinbefore provided.

§ 18. Issue of bonds. Estimate of amount necessary. Examination by engineer. Special election. Manner of conducting. Bonds, issuance and form of. Interest coupons. Sale of bonds. Action to determine if bonds legal. Warrants. Bond, legal investments. Additional bond issue. At any time after the irrigation board shall have made the examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water, and for the other purposes enumerated in this act, and after the same has been entered in the minutes of said board and shall have also had assessed and apportioned upon the lands in any irrigation district organized under the provision of this act the charges and benefits and apportionments provided for in this act, and after such apportionment and assessment-roll shall have been finally fixed and approved by the said board, and after the same has been entered in the minutes of the said board must, as soon as may be practicable, proceed and issue the bonds of said irrigation district for the purposes aforesaid.

The said board shall, in connection with the previous estimates made and adopted by it, estimate the amount of money necessary to be raised by such bond issue for the purposes of said irrigation district, as aforesaid, and shall ascertain and determine the same and enter its order to that effect in the minutes of said board. And whenever thereafter the construction fund of said irrigation district has been exhausted by expenditures herein authorized, and it is necessary to raise additional money for such purposes, it shall be the duty of said board to estimate and determine the amount of money necessary to be raised for such additional purposes.

For the purposes of such bond issue, or additional bond issue, the said board shall be authorized to employ engineers and other assistants and make all such further examinations and estimates as may be necessary, to fix and determine such matters and the conclusion and estimates of said board shall be entered in its minutes. Said irrigation board shall by order entered in its records order a special election to be held at such place or places in said irrigation district as shall be designated by said irrigation board, at which said election there shall be submitted to the owners of land in said irrigation district the question whether or not the bonds of said district shall be issued in the amount specified in the order of said board, and which amount shall be stated in the order for such special election. For all purposes of this act relating to signing petitions and voting at any election, and for all other purposes, where the question of title to land claimed to be owned by such voter or owner

is involved, the equalized assessment-roll for the year last preceding in each county wherein any land of the said irrigation district is situated, shall be sufficient evidence of ownership of lands in the irrigation district. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may vote without obtaining any special authority therefor. Said irrigation board shall at the time of calling the said election designate in its order the voting place or places at which said election shall be held and where votes shall be cast and shall designate three landholders of the irrigation district to act as a board of election at each voting place.

Notice of such special election must be given by the irrigation board by posting notice thereof in at least three public places in such irrigation district at least twenty days prior thereto, and also by publishing such notice once a week for the same length of time in some newspaper of general circulation, published in each county in which any portion of said irrigation district may be situated, or if there be no newspaper published in any one of such counties, then in each county wherein such newspaper is published; and such notice must specify the time and place of holding said election and the aggregate face value of bonds proposed to be issued and the names of three landholders of said irrigation district to act as a board of election at each polling place. Affidavits of the publication and posting of such notice must be filed with the secretary of said irrigation board.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each acre of real estate owned by him in the irrigation district, such ownership to be determined from the next preceding assessment-roll of the county or counties in which the lands of the irrigation district are situated and the irrigation board shall, prior to the election, cause to be prepared and certified and furnished to the board of election at each polling place, a true and correct copy of each of said next preceding assessment-rolls so far as such assessment-roll applies to any lands within such irrigation district, which said certified roll shall be used by the board of election in determining the number of votes each voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the vote of the estates represented by them. No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election.

The ballots cast at such election shall contain the words, "bonds, yes" or "bonds, no" and also the name of the person casting the ballot, with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the name of each voter, and, if the ballots be cast by proxy, the name of the person casting it and the number of votes cast by each and whether the same be cast for or against the issuing of bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present, voting individually, may appoint in his place any landholder in the irrigation district. Each member of said board of election must, before

entering upon his duties, take and subscribe an official oath, to faithfully perform his duties as an officer of such election, which oath may be administered by any officer authorized to administer oaths, or by a land holder in the irrigation district.

The polls shall be kept open from ten o'clock A. M. of the day of election until five o'clock P. M. of that day.

At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and shall forward a certificate showing such result and the number of votes cast for and against the issuing of the bonds to the irrigation board and shall also deliver to the said irrigation board all ballots cast at such election and all documents and papers used at such election.

Said irrigation board shall, upon the receipt of such canvass and declaration of the result from the said board of election, proceed to examine the same and shall ascertain and declare the result as shown by such canvass and declaration, and shall enter an order in its minutes that the said proposition for the issuance of said bonds has been carried or defeated, as the case may be.

Forthwith, upon the declaration of the result of said election by said irrigation board, the secretary of said board shall make a certified copy of the order of said board, declaring the result of said election, and shall forward said certified copy or copies to the recorder or recorders of the counties in which any land of said irrigation district may be situated, and the same shall forthwith be filed and recorded in said recorder or recorders' office, and shall impart notice to all interested persons as to the result of said election.

Any person owning property within the said irrigation district, liable to assessment, may contest such election, by filing a written contest specifying the grounds of his objection thereto, with said irrigation board, said written contest to be filed within thirty days after the declaration of the result of said election by said irrigation board, and if no such contest and objections be filed within thirty days, no such contest and objections shall thereafter be received or filed. Such written contest shall specify the ground or grounds of contest to said election, and upon the filing of the same with said irrigation board it shall expeditiously set the said contest for hearing, and shall have the right to postpone the hearing for such time as may be necessary, but not otherwise, and shall expeditiously hear and determine the same. For the purposes of such hearing the board may by subpoena signed by the secretary under its seal compel the attendance of witnesses and the production of evidence. Disobedience of such subpoena or of any lawful order of the board in the premises shall constitute a contempt of the authority of the board punishable by the board in accordance with title five of part three of the Code of Civil Procedure, and shall also constitute a misdemeanor under section one hundred sixty-six of the Penal Code. Said irrigation board shall, upon the conclusion of said hearing of said contest, proceed forthwith to enter its order and decision thereon. Such decision on the part of said irrigation board shall be final, conclusive and binding upon all parties interested as to validity and as to result of such election and shall be subject to review only

in the event suit is brought by the said irrigation district or by some person or corporation or association authorized to bring the same to determine the question of the validity of the said bond issue, and in the determination and adjudication of the question of the validity of said bond issue, as hereinafter specified, the court may review and consider the validity of said election for the issuance of said bonds, but in such action the certificate and determination of said irrigation board shall be received and accepted by the court as prima facie evidence of the result as to the validity of said election and the regularity of the canvassing, counting and return of the votes cast at said election. If a majority of the votes cast at such an election is in favor of the issuance of bonds, the irrigation board shall after canvassing the returns and declaring the result of said election cause bonds of said irrigation district in the amount stated in the order for the election to be issued, executed and delivered to the state treasurer of the state of California. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the irrigation board and attested by the secretary thereof, and shall be numbered consecutively in the order of their maturity, and shall bear interest at the rate not exceeding six per centum per annum, payable semi-annually on the first day of January and the first day of July in each year, at the office of said state treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the state treasurer of the state of California.

The principal of said bonds shall be made payable, by an order entered into the minutes of the irrigation board, upon the first day of July or the first day of January, and in such years as the irrigation board may prescribe. Said bonds shall be payable serially within forty years from their date in the manner following, to wit:

Not less than five per cent of the aggregate face value of the bonds issued shall be payable each year, beginning not later than the twentieth year from their date until the whole amount of said bonds have been paid.

Said irrigation board, subject to the provisions of this act, is authorized and empowered to take all such actions and make all such orders as may be necessary in connection with the issuance, sale and disposition of said bonds.

Said bonds may be substantially in the following form:

UNITED STATES OF AMERICA.

STATE OF CALIFORNIA.

No. —— $ ——

Name of district —— Irrigation District ——

(Name of district) Irrigation District, for value received, hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the state treasurer of the state of California, on the first day of ——, 19—, the sum of $——, in gold coin of the United States of America, with interest thereon in like gold coin from

date hereof until paid, at the rate of —— per cent per annum, payable at the office of said treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of —— bonds of like tenor and effect, except as to denomination and maturity, numbered from —— to —— inclusive, amounting in the aggregate to $—— issued in accordance with the California irrigation act, pursuant to an election held in said district on the —— day of —— 19—, authorizing its issuance, and is based upon and secured by a lien upon and a valuation and apportionment levied on the land in said irrigation district and filed in the office of the state irrigation board on the —— day of —— 19—; and the said district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all of the acts and conditions and things required by law to be done precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of such irrigation district bonds.

In testimony whereof, the said irrigation district, acting by and through the irrigation board of the state of California, has caused this bond to be signed by the president of said irrigation board, and attested by the secretary thereof, with his seal of office affixed, this —— day of ——, 19—.

By ——, ——,
President of said board.

Attest: —— ——,
Secretary of said board.

And the interest coupon may be substantially in the following form:

No. ——. $——.

The state treasurer of the state of California will pay to the holder hereof on the —— day of —— 19—, at his office in the city of Sacramento, state of California, the sum of $—— in gold coin of the United States out of the funds of —— irrigation district —— for interest on bond of said irrigation district numbered ——.

—— ——,
State treasurer.

The state treasurer shall place the bonds prepared pursuant to this act to the credit of the irrigation district and the irrigation board may in its discretion direct the state treasurer to sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less that ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the state treasurer by publication at least once a week for three weeks in a newspaper of general circulation published in the city of Sacramento, and also one or more papers in the county in which the greater portion of said irrigation district is situated, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase

of said bonds, or any part thereof. At the time appointed the state treasurer shall open the bids and award the bonds to the highest responsible bidder. He may reject any and all bids. Any sale by the state treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the state treasury to the credit of said irrigation district, and a proper record of such transaction shall be made upon his books. At any time after said bonds shall have been delivered to the state treasurer, an action may be commenced in the superior court of the county within which is situated the largest area of land within said irrigation district by the irrigation board in the name of the irrigation district or by any person owning property within the said irrigation district liable to assessment. Such action shall be brought and prosecuted against the lands in said irrigation district and all persons owning the same or interested therein, to have it determined as to whether or not said bonds when sold will be a legal obligation of such irrigation district. It shall be sufficient to describe said lands as all lands in the irrigation district (naming it) without a more specific description. The summons shall be published once a week for three weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such irrigation district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days after entry of judgment and said appeal and the hearing thereof shall be expedited in said court. Judgment for the plaintiff in such proceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons.

The irrigation board may draw warrants upon the state treasury against the funds provided by sale of said bonds.

The money derived from the sale of any of said bonds shall be received by the state treasurer and shall by him be safely kept and placed to the credit of said irrigation district in a fund to be designated in the name of such irrigation district for the said irrgation district and may be drawn and expended upon warrants drawn against said fund as in this act provided.

Bonds of any irrigation district issued pursuant to the provisions of this act which are investigated and approved by any commission or officer now or hereafter authorized by a law of this state to conduct such approval and by authority of which approval said bonds are declared to be legal investments for savings banks may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators and special administrators, or by

any public officer or officers of this state, or of any county, city, city and county or other municipal or corporate body within the state having or holding funds which they are allowed by law to invest or loan.

If after said irrigation district has authorized the issuance and sale of a series of bonds under this act, it shall become necessary so to do an additional bond issue or series of bonds may be authorized and sold and all proceedings shall be had and taken, and all procedure in connection with said second issue or series of bonds shall be had and taken in accordance with the provisions of this act as to the first issue of bonds; provided, that said second issue or series of bonds shall not be issued so as to in any manner interfere with the lien or security of the payment of the first issue of bonds, and said second issue or series of bonds shall, as to the lien thereof and as to the security of same, be subsequent and subordinate and subject to such first bond issue.

§ 19. **Not applicable to counties with charter, or city and county.** Nothing in this act contained shall affect, or apply to, any irrigation, protection, flood control, conservation, or other improvement district situated wholly or in part within any county which has adopted a charter pursuant to section seven and one-half of article eleven of the constitution of California, ratified and approved as provided therein, prior to June 4, 1915, or within any city and county; and said board shall have no power of jurisdiction within any of said districts or within such counties or city and county.

ACT 1732j.

An act authorizing and empowering irrigation and reclamation districts to enter into contracts with the United States Reclamation Service for the reclamation of lands within such district under the provisions of the so-called "twenty year extension act."

[Approved May 21, 1917. Stats. 1917, p. 781. In effect July 27, 1917.]

§ 1. **Irrigation and reclamation districts may contract with United States Reclamation Service.** The board of trustees, or directors of any irrigation or reclamation district now organized under the provisions of the laws of the state of California, or of any irrigation or reclamation district hereafter organized under the laws of the state of California, may, in their discretion, whenever it is determined by such board that it is for the best interests of such districts, enter into a contract with the proper officers of the United States Reclamation Service for the reclamation, either by drainage or irrigation of lands within the boundaries of such district, or by preventing high water from overflowing the same, under the provisions of an act of congress approved August 13, 1914, entitled "An act extending the period of payment under reclamation projects, and for other purposes," which act is commonly known as the twenty-year extension act, and from and after the execution of such contract, the amount of indebtedness created thereby shall be and become a lien upon the lands to be benefited by such reclamation work.

§ 2. **Payment of amounts due.** The board of trustees or directors of any irrigation or reclamation district above mentioned, shall provide by

a resolution duly adopted at a regular meeting, or special meeting of such board called for the purpose, for the payments of the amounts to become due under the contract with the United States, according to the provisions of such contract, by assessment upon the lands, in such district, which are to be benefited by such work, such assessment to be collected by the tax collector of the county within which such lands are situated, the same as other taxes are collected, or by any other officer authorized by law to collect assessments within said district.

ACT 1732k.

An act defining a private irrigation plant and mutual water company and providing the conditions under which the owner of a private irrigation plant or a mutual water company may deliver water to others or others than its stockholders or members without becoming a public utility, and limiting such authority to the time the United States is a party to war or to a state of war; and declaring this act to be an urgency measure.

[Approved May 5, 1917. Stats. 1917, p. 281. In effect immediately.]

§ 1. **"Private irrigation plant."** (a) The term "private irrigation plant," when used in this act, shall be construed to mean a water system which is not operated by a mutual water company as herein defined or by a public utility as defined in the public utilities act, approved December 23, 1911, and acts amendatory thereof, or in the act entitled "An act providing for the regulation of water companies, defining their powers and duties, defining the powers and duties of the railroad commission with reference thereto, and defining the conditions under which such water companies became subject to the provisions of the public utilities act and the railroad commission of the state of California," approved April 25, 1913.

(b) **"Mutual water company."** The term "mutual water company," when used in this act, means any private corporation or association organized for the purpose of delivering water solely to its stockholders or members at cost.

§ 2. **Water may be delivered to other than stockholders, when. Statement filed with railroad commission.** For the sole purpose of increasing the output of agricultural products in this state during the time the United States is a party to war or to a state of war, the owner of any private irrigation plant or any mutual water company may at its option deliver water to others or others than its stockholders or members, with or without compensation, without becoming a public utility subject to the jurisdiction of the railroad commission of the state of California; provided, that no delivery of water to others than stockholders or members shall be authorized until the orders for water of all stockholders or members made in accordance with the constitution, by-laws, rules or regulations of such mutual water company have been filled, and provided, further, that the temporary service herein authorized shall not be construed as granting any right to render or receive such service more than six months after such war need has ceased; and provided, further, that after June first, one thousand nine hundred

seventeen, no such temporary service of water shall be made unless a statement is first filed with the railroad commission stating the private irrigation plant or mutual water company rendering such service, the party receiving such service, the lands irrigated and the rate, if any, charged for such service.

§ 3. **Urgency measure.** This act is hereby declared to be an urgency measure, and under the provisions of section 1 of article four of the constitution of the state of California shall take effect immediately. The facts constituting such urgency are as follows: The United States is now in a state of war and there is a shortage of crops in this state and throughout the nation generally. It is therefore necessary for the immediate preservation of public safety that this act take effect immediately so that the use of water in the irrigated area and the resulting crop returns of the state may be increased to the maximum output without delay.

ACT 17321.

An act to provide for co-operation in acquisition, construction and management of irrigation and drainage works between irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for organization and government of irrigation districts and to provide for the acquisition thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and contiguous or adjoining districts in or organized under the laws of other states.

[Approved May 23, 1917. Stats. 1917, p. 905. In effect July 27, 1917.]

§ 1. **Irrigation districts may co-operate with districts in adjoining states.** It shall be lawful for irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to proide for the distribution of water for irrigation purposes," approved March 31, 1897, to enter into agreements with irrigation districts in adjoining states for the joint construction, acquisition, management and control of diverting, impounding or distributing works for irrigation or draining the lands within the boundaries of their respective districts.

§ 2. **Contracts.** Such agreements may be evidenced by written contracts executed on behalf of their respective boards of directors or trustees, or by resolutions entered upon their respective minutes. Such contracts or certified copies thereof and certified copies of such resolutions shall be recorded in the office of the county recorder in each county in which is situated any of the lands of said districts or any of the reservoir sites or other real property owned by said districts or acquired under the provisions of this act.

§ 3. **Ownership of property.** Such agreements may provide for joint or several ownership or ownership in common of the property, necessary

or convenient for the purposes of this act and may provide for the terms and conditions under which or the respective proportions in which such property shall be held. Any rights or disputes arising out of or from said agreements may be tried before and enforced by any court of competent jurisdiction in the state.

§ 4. **Meetings held in adjoining state legal.** Any meeting of the board of directors of any such district, held in conjunction with the board of directors of the co-operating district, in such district in the adjoining state, if duly and regularly called as required by law or if regularly adjourned to, shall be as lawful and valid as if held at the office of the board of directors of such district in this state.

§ 5. **Lawful to divert water from state.** It shall be lawful, for the purposes of such co-operative action to divert water from this state for impounding in the adjoining state or otherwise for distribution to the lands of the co-operating districts regardless of the state in which such lands are situated or to divert water from such adjoining state for impounding or otherwise for distribution to the lands of such co-operating districts in this or the adjoining state.

§ 6. **Districts may hold property in adjoining state.** So far as may be necessary for fully carrying out the purposes of this act such co-operating district in the adjoining state may hold title to property, in this state and such co-operating district in this state may hold title to property in the adjoining state.

TITLE 274.

JUVENILE COURT.

ACT 1770a.

An act to be known as the juvenile court law, and concerning persons under the age of twenty-one years; and in certain cases providing for their care, custody and maintenance; providing for the probationary treatment of such persons, and for the commitment of such persons to the Whittier State School and the Preston School of Industry, the California School for Girls, and other institutions; establishing probation officers and a probation committee to deal with such persons and fixing the salary thereof; providing for the establishment of detention homes for such persons; fixing the method of procedure and treatment or commitment where crimes have been committed by such persons; providing for the punishment of those guilty of offenses with reference to such persons, and defining such crimes; and repealing the juvenile court law approved March eighth, nineteen hundred and nine, as amended by an act approved April fifth, nineteen hundred and eleven, and as amended by an act approved June sixteenth, nineteen hundred and thirteen, and all amendments thereof and all acts or parts of acts inconsistent herewith.

[Approved June 5, 1915. Stats. 1915, p. 1225.]

Amended 1917, pp. 1002, 1022.

The amendments of 1917 follow:

§ 19c. Probation officers in counties of third class. In counties of the third class there shall be one probation officer and ten assistant probation officers. The salaries of said officers shall be as follows: Probation officer, two hundred twenty-five dollars a month; one assistant at a salary of one hundred seventy-five dollars a month; one assistant at a salary of one hundred sixty dollars a month; one assistant at a salary of one hundred fifty dollars a month; one assistant at a salary of one hundred thirty-five dollars a month; three assistants at a salary of one hundred dollars a month each; two assistants at a salary of eighty-five dollars a month each; one assistant at a salary of seventy-five dollars a month; provided, however, that in the event an adult probation department is created in counties of the third class, from and after the creation of such department and the appointment of an adult probation officer or any deputy or assistant or like officer who shall relieve the probation officer of the adult probation work, the offices of assistant probation officer at a salary of one hundred seventy-five dollars a month and of assistant probation officer at a salary of one hundred sixty dollars a month shall cease and determine and be abolished in counties of this class. [Amendment approved May 28, 1917; Stats. 1917, p. 1002.]

§ 19e. Sixteenth, etc., classes. In each of the counties of the sixteenth, twenty-second and twenty-third classes there shall be one probation officer, whose salary shall be one hundred fifty dollars per month. In counties of the fifth class there shall be one probation officer at one hundred seventy-five dollars per month, one assistant probation officer, whose salary shall be one hundred fifty dollars per month; one assistant probation officer at a salary of one hundred dollars per month, and one assistant probation officer, who shall be a competent stenographer, at a salary of eighty-five dollars per month. In counties of the twenty-third class there shall be one assistant probation officer, whose salary shall be fifty dollars per month. In counties of the twenty-second class the probation officer shall perform in addition to his duties as probation officer, the duties of the attendance officer for the schools of the county, and investigator for the board of supervisors on application for county and state aid, without any additional compensation except his necessary expenses and such mileage as the board of supervisors shall fix and allow in the performance of his duties. [Amendment approved May 28, 1917; Stats. 1917, p. 1023.]

§ 19i. Ninth, etc., classes. In each of the counties of the ninth, twelfth, thirteenth, fifteenth, seventeenth, eighteenth, nineteenth, twenty-sixth, twenty-seventh, thirty-third and thirty-sixth class, there shall be one probation officer whose salary shall be one hundred dollars per month. In counties of the ninth class there shall be two assistant probation officers, whose salaries shall be as follows: One assistant probation officer, whose salary shall be seventy-five dollars per month and one assistant probation officer whose salary shall be fifty dollars per month. In counties of the twelfth class, there shall be one assistant probation officer whose salary shall be seventy-five dollars per month. In counties of the thirteenth class there shall be one assistant probation officer whose sal-

ary shall be twenty-five dollars per month. In counties of the eighteenth class there shall be four assistant probation officers whose salaries shall be twenty-five dollars per month each. In counties of the twenty-third class there shall be one assistant probation officer whose salary shall be fifty dollars per month. In counties of the twenty-sixth class there shall be one assistant probation officer, whose salary shall be sixty dollars per month; provided, that in counties of the twelfth class the probation officer shall, as a part of his duties, and without any additional compensation, except his necessary expenses, do all necessary work that the board of supervisors of said county may designate or require, in looking after the indigent and poor of said county. [Amendment approved May 28, 1917; Stats. 1917, p. 1023.]

§ 19k. **Eleventh, etc., classes.** In each of the counties of the eleventh, fourteenth and thirtieth class there shall be one probation officer whose salary shall be one hundred twenty-five dollars per month; provided, that in the counties of the eleventh class there shall be an assistant probation officer, whose salary shall be seventy-five dollars per month; and provided, that in counties of the fourteenth class there shall be an assistant probation officer, whose salary shall be fifty dollars per month; and provided, further, that in counties of the thirteenth class the probation officer shall, as a part of his duties, and without any additional compensation, except his necessary expenses, do all necessary work that the board of supervisors of said county may designate or require, in looking after the indigent and poor of said county. [Amendment approved May 28, 1917; Stats. 1917, p. 1024.]

§ 19 l. **Thirty-second class.** In each of the counties of the thirty-second class there shall be one probation officer, whose salary shall be seventy-five dollars per month. [Amendment approved May 28, 1917; Stats. 1917, p. 1024.]

§ 19 ll. **Twentieth class.** In each of the counties of the twentieth class there shall be one probation officer, whose salary shall be one hundred dollars per month. [New section added May 28, 1917; Stats. 1917, p. 1024.]

§ 19m. **Thirty-ninth, etc., classes.** In each of the counties of the thirty-ninth, fortieth and forty-second classes, there shall be one probation officer whose salary shall be fifty dollars per month. [Amendment approved May 28, 1917; Stats. 1917, p. 1024.]

§ 19mm. **Twenty-first class.** In each of the counties of the twenty-first class there shall be one probation officer, whose salary shall be sixty-five dollars per month. [New section added May 28, 1917; Stats. 1917, p. 1024.]

§ 19nn. **Forty-third class.** In each of the counties of the forty-third class there shall be one probation officer, whose salary shall be fifty dollars per month. [New section added May 28, 1917; Stats. 1917, p. 1024.]

§ 19o. **Twenty-fifth class.** In counties of the twenty-fifth class there shall be one probation officer whose salary shall be one hundred fifty

dollars per month, and one assistant probation officer whose salary shall be seventy-five dollars per month. [Amendment approved May 28, 1917; Stats. 1917, p. 1025.]

TITLE 276a.

KELP.

ACT 1782.

An act to regulate the taking and harvesting of kelp and other aquatic plants of the state of California by recognizing and declaring their ownership in the state of California and providing for the control thereof by the fish and game commissioners, and providing for a license tax upon all persons, firms or corporations engaged in the industry of taking or harvesting kelp or other aquatic plants, and providing for the collection and disbursement of the revenues derived therefrom, and providing for a privilege tax upon all kelp taken in the waters of this state, and providing for the protection of kelp-beds, and for the manner of taking kelp and other aquatic plants, and providing for hearings by the fish and game commissioners, and providing penalties for the violation of this act.

[Approved May 18, 1917. Stats. 1917, p. 646. In effect July 27, 1917.]

§ 1. **Kelp state property.** All kelp and other aquatic plants in the waters of the state are hereby declared to be the property of the state of California.

§ 2. **Powers of board of fish and game commissioners.** The board of fish and game commissioners of the state of California are hereby empowered to carry out the provisions of this act, and to make proper rules and regulations for the taking and harvesting of kelp, and the conservation of kelp and aquatic plants, and to see that the laws, rules and regulations with reference thereto are strictly enforced, and to issue all licenses herein provided for, and collect the fees therefor, and to collect all moneys due or to become due under this act.

§ 3. **License to harvest kelp.** Every person, firm or corporation, desiring to engage in taking or harvesting kelp or other aquatic plants for profit in the waters of this state must first obtain a license before engaging in such occupation.

§ 4. **Term. Fee. Privilege tax.** Licenses granting the privilege to take or harvest kelp in this state shall be issued and delivered upon application by the state board of fish and game commissioners, who shall prepare suitable licenses, which shall license the holder of such license to take or harvest kelp or other aquatic plants in this state for the term of one year from the date of the issuance of such license. All licenses shall be numbered consecutively, and shall contain blanks for the name of the licensee, and place of business, which information shall be furnished by the applicant to the board of fish and game commissioners. The license herein provided for shall be issued to such applicant upon payment of ten dollars and before such license is delivered to the applicant said license must be countersigned by the president of the board of fish and

game commissioners, and in addition to such license fee every person, firm or corporation taking or harvesting kelp shall pay a privilege tax of one and one-half cents per ton of wet kelp taken or harvested.

§ 5. **Record of kelp harvested.** Every person, firm or corporation engaged in taking or harvesting kelp in the waters of this state shall cause to be weighed, all wet kelp immediately after said kelp shall be delivered to the place of business designated in said license, and the weight thereof shall be entered in a book, or books, to be kept by said person, firm or corporation, said book or books to be open at all times to the inspection of the board of fish and game commissioners, or any of its deputies; every person, firm or corporation engaged in taking or harvesting kelp shall on or before the tenth day after the last day of each month during the term of said license, render a statement of the weight of all wet kelp cut or harvested during the preceding month, and pay to the board of fish and game commissioners, the privilege tax herein provided for.

§ 6. **Notice of closing kelp-beds. Hearing. Complaint. Answer. Evidence. Witness' fees. Powers of superior court. Failure of witnesses to obey subpoenas. Depositions of witnesses.** If at any time the taking or harvesting of kelp will tend to destroy or impair any kelp bed or beds or parts thereof, or shall tend to impair or destroy the supply of any food for game fish, said fish and game commission shall cause to be served on every person, firm or corporation, licensed to take or harvest kelp in the waters of this state, a notice in writing that said kelp bed or beds or parts thereof shall be closed to the taking or harvesting of kelp for a period not to exceed one year. Within ten days after the service upon any person, firm or corporation licensed to take or harvest kelp under the provisions of this act, of a notice that any kelp-bed or beds or parts thereof are closed to the taking or harvesting of kelp, said person, firm or corporation engaged in taking or harvesting kelp shall on making such order, by serving on the board of fish and game commissioners a demand to be heard upon the necessity for closing said kelp bed or beds or parts thereof for the taking or harvesting of kelp, and upon such demand for a hearing, said board of fish and game commissioners shall fix a time and place for the taking of evidence upon the necessity of closing said bed or beds or parts thereof, which time shall be not less than ten days nor more than thirty days from the date of such demand for a hearing, and said fish and game commission shall cause notices in writing of said time and place to be served upon the party or parties making a demand for said hearing at least ten days before the day set for the hearing, and if no demand is made for a hearing within the time prescribed herein, said kelp bed or beds or parts thereof shall remain closed to the taking or harvesting of kelp for the time mentioned in said order.

Complaint may be made by the commission or any of its deputies against any person, firm or corporation licensed to cut or harvest kelp in the waters of this state for any violation of the laws of this state, or any rules or regulations made by the board of fish and game commissioners for the taking or harvesting of kelp. Said complaints shall be made in writing, setting forth the particular offense charged to have been committed by said person, firm or corporation, a copy of which shall be

filed with the board of fish and game commissioners and a copy of the same served upon the person, firm or corporation so charged. Said person, firm or corporation must appear or file an answer within five days from the date of service of a copy of said complaint, and if default be made, the board of fish and game commissioners shall issue an order revoking said license for the period hereinafter prescribed in this act, and said board of fish and game commissioners shall fix a time and place for the hearing of said charges, not less than ten days nor more than thirty days from the filing of said charges, and if the party accused appears and answers, a day may be fixed within the time prescribed in this act to take testimony. The evidence in any investigation, inquiry or hearing upon the necessity for closing any kelp bed or beds or parts thereof and the evidence in any hearing upon any charges made against any person, firm or corporation for violating any of the laws of the state of California for the preservation of kelp, or of the rules and regulations of the board of fish and game commissioners regulating the taking and harvesting and handling of kelp provided for in this section may be taken by any member of the board of fish and game commissioners, or such deputy fish and game commissioner or employee as the board may designate to take such evidence; and each member of the board and any of its deputies or employees designated to take evidence at the hearing provided hereby shall have the power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses at such hearing. Each witness legally subpoenaed attending a hearing shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. The superior court in and for the county or city and county in which any inquiry, investigation, hearing or proceeding may be held under authority of this section, shall have power to compel the attendance of witnesses, the giving of testimony and the production of papers, as required by any subpoena issued under authority of this section.

The commission or representative of the commission before whom the testimony is to be given or produced may in the case of refusal of any witness to attend, or testify or produce any papers required by such subpoena, report to the superior court in and for the county or city and county in which the proceeding is pending by petition setting forth that due notice has been given of the time and place of the attendance of said witness or the production of said papers and that the witness has been summoned in the manner prescribed in this act and that the witness has failed and refused to attend or produce the papers required by the subpoena before the commission or its representatives, in the case or proceeding named in the notice of time and place of hearing and subpoena, or has refused to answer questions propounded to him in the course of said proceeding, and ask an order of said court to compel the witness to attend and testify or produce said papers before the commission or its representatives.

The court upon the petition of the commission or its representatives, shall enter an order directing the witness to appear before the court at any time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there

show cause why he has not attended and testified or produced said papers before the commission or its representative. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or its representative the court shall thereupon enter an order that said witness shall appear before the commission or its representatives at the time and place entered in said order, and testify or produce the required papers, and upon failure to obey said order said witness shall be dealt with as for contempt of court.

The commission or its representatives, or any party designated by the fish and game commission may, in any investigation or hearing before the commission, or its representatives, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state, and to that end may compel the attendance of witnesses and the production of documents and papers.

§ 7. **Revocation of license.** If any person, firm or corporation, taking or harvesting kelp from any bed or beds or parts thereof, after service of a notice that said bed or beds or parts thereof are closed to the taking or harvesting of kelp, takes or harvests any kelp between the time of the service of said notice and the decision of the board of fish and game commissioners upon the hearing for the necessity for closing said kelp bed or beds or parts thereof, his license may be revoked for a period not to exceed one year.

§ 8. **Revocation of license.** If any person, firm or corporation, licensed to take or harvest kelp in the waters of this state shall violate any of the laws of the state of California, regulating the taking and harvesting of kelp, or any rule or regulation of the board of fish and game commissioners regarding the taking or harvesting of kelp, said board of fish and game commissioners may, after a hearing, as provided herein, revoke said license and withhold the issuance of a new license to any such person, firm or corporation for a period not to exceed one year thereafter.

§ 9. **Penalty. Fines paid in part to "state university fund."** Every person, firm or corporation, who takes or harvests kelp or other aquatic plants for profit in this state, without first obtaining a license therefor, is guilty of a misdemeanor and upon conviction shall me punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail, in the county in which conviction shall be had for not less than fifty days nor more than one hundred and fifty days, or by both such fine and imprisonment.

All fines and forfeitures collected for any violation of this act and all license fees and two-thirds of the moneys collected from the privilege tax under this act must be paid into the state treasury to the credit of the fish and game preservation fund and one-third of the moneys collected from the privilege tax under this act must be paid into the state treasury to the credit of the "state university fund." The amount so paid to the "state university fund" in accordance with the direction of this section, is hereby appropriated to be expended annually in accordance with law by the Scripps Institute for Biological Research.

§ 10. **License not required, when.** The fish and game commission of this state shall have the power, subject to such rules and regulations as it may deem proper, to grant permits to any department of the United States government or to any scientific or any educational institution to take or harvest kelp at any and all times for scientific or experimental purposes without the payment of the kelp license or privilege tax herein provided.

§ 11. **Repealed.** All acts and parts of acts in conflict herewith are hereby repealed.

TITLE 284.

LABOR STATISTICS.

ACT 1828.

An act to establish and support a bureau of labor statistics.

[Approved March 3, 1883. Stats. 1883, p. 27.]

Amended 1889, p. 6; 1901, p. 12; 1907, p. 306; 1909, p. 36; 1911, pp. 39, 1205; 1915, pp. 925, 928; 1917, p. 328.

The amendment of 1917 follows:

§ 9. **Assistants of labor commissioner. Offices.** The commissioner shall appoint two deputies who shall have the same power as said commissioner; an assistant deputy who shall reside in the county of Los Angeles; a statistician and chief examiner; a stenographer; and such agents or assistants as he may from time to time require, at such rate of wages as he may prescribe, and actual traveling expenses for each person while employed. He shall procure rooms necessary for offices in San Francisco, Los Angeles, Sacramento, San Diego, and in such other places as he may deem necessary, at a rent not to exceed the sum of four hundred dollars per month. [Amendment approved May 10, 1917; Stats. 1917, p. 328.]

§ 10. **Salaries. Traveling expenses.** The salary of the commissioner shall be four thousand dollars per annum; the salary of each deputy commissioner shall be two thousand four hundred dollars per annum; the salary of the assistant deputy shall be two thousand one hundred dollars per annum; the salary of the statistician and chief examiner shall be, two thousand seven hundred dollars per annum; the salary of the stenographer shall be one thousand two hundred dollars per annum; to be audited by the controller and paid by the state treasurer in the same manner as other state officers. There shall also be allowed a sum not to exceed forty thousand dollars per annum for salaries of agents or assistants, for traveling expenses, and for other contingent expenses of the bureau. [Amendment approved May 10, 1917; Stats. 1917, p. 328.]

The amending act also contained the following provisions:

§ 3. **Repealed.** All the provisions of said act in conflict with the provisions of this act are hereby repealed.

TITLE 298.
LEGISLATION.

ACT 1901.

An act to establish a legislative counsel bureau and making an appropriation therefor.

[Approved May 26, 1913. Stats. 1913, p. 626.]

Amended 1915, p. 49; 1917, p. 1398.

The amendment of 1917 follows:

§ 1. Legislative counsel bureau created. A bureau is hereby created to be known as the legislative counsel bureau, which shall be in charge of a chief, who shall be a civil executive officer and who shall be known as the legislative counsel of California and who shall be appointed by the governor and who shall hold during the pleasure of the governor. The legislative counsel shall be chosen without reference to party affiliations and solely on the ground of fitness to perform the duties of his office. [Amendment approved May 31, 1917; Stats. 1917, p. 1398.]

§ 2. Duty of legislative counsel. It shall be the duty of the legislative counsel to prepare and assist in the preparation, amendment and consideration of legislative bills when requested or upon suggestion as herein provided. Upon request he shall advise any state officer, commissioner or bureau as to the preparation of bills to be submitted to the legislature; and when requested so to do, he shall advise as to their work with any legislative committee appointed to carry on investigations between sessions of the legislature. He shall advise the legislature from time to time as to needed revision of the statutes. He shall present to each session of the legislature a statement calling attention to laws which have been repealed by implication or which have been declared unconstitutional by the courts but which have not been expressly repealed. It shall also be the duty of the legislative counsel, whenever in his judgment there is reasonable probability that an initiative measure will be submitted to the voters of the state of California under the laws of the state relating to the submission of measures by initiative, to co-operate with the proponents of said measure in the preparation of said law when requested in writing so to do by twenty-five or more electors proposing such a measure. [Amendment approved May 31, 1917; Stats. 1917, p. 1398.]

§ 3. Preparation of legislative bills. Not to urge legislation. The legislative counsel shall prepare or assist in the preparation or amendment of legislative bills at the suggestion, in writing and as herein set forth, of the governor of the state, or of any judge of the supreme court or of the district courts of appeal or of the superior courts of the state, or of any committee of the senate or assembly of the legislature of the state. All such suggestions shall set forth the substance of the provisions desired or which may be needed with the reasons therefor. Such suggestion by a judge of the supreme court shall be filed with the clerk of that court. Such suggestion by a judge of a district court of appeal shall be filed with the clerk of that court. Such suggestion by a judge of a superior court shall be filed with the clerk of the district court of

appeal of the district within which such superior court is located. When such suggestion is so filed with the clerk of the supreme court or of a district court of appeal, that clerk shall make and send to the permanent office of said bureau a certified copy of such suggestion, and all other suggestions shall be filed at said office, and all such papers so received at such office shall be there permanently filed and recorded and copies furnished to the legislative counsel. The legislative counsel shall prepare a bill in accordance with such suggestion and shall transmit it to the chairman of the judiciary committee of each house at the next succeeding session of the legislature.

From the time the legislature of the state convenes until it is adjourned finally, the legislative counsel shall give such consideration to and service concerning any bill before the legislature, as circumstances will permit, and which is in any way requested by the governor of the state or the senate or the assembly or any committee of the legislature having such bills before it for consideration, and after such adjournment the legislative counsel shall still remain so subject to such request by the governor of the state as to any bill still in his hands for rejection or approval or other action. Neither the legislative counsel nor any employee of the bureau shall oppose or urge legislation; but the bureau shall, upon request, and so far as may be in its power, aid and assist any member of the legislature as to bills, resolutions and measures, drafting the same into proper form and furnishing to them the fullest information upon all matters in the scope of the bureau. Neither the legislative counsel nor any other employee of the bureau shall reveal to any person outside thereof the contents or nature of any matter which has not become a public record, except with the consent of the person bringing such matter before the bureau. [Amendment approved May 31, 1917; Stats. 1917, p. 1399.]

§ 4. **Office in capitol. Temporary offices.** The legislative counsel shall be in attendance upon all sessions of the legislature and his permanent office shall be in the state capitol in Sacramento, where he shall be provided with suitable and sufficient offices convenient to the chambers of the two houses of the legislature. For the convenience of members of the legislature, however, and when in his judgment the conduct of his work requires, he may maintain temporary offices at other places in the state of California. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 5. **Salaries.** The salary of the legislative counsel shall be four thousand dollars per annum and shall be payable in equal monthly installments. The legislative counsel shall have authority to employ and to fix the compensation of such professional assistants and such clerical and other employees as he may deem to be necessary for the effective conduct of the work under his charge. The salary of the legislative counsel and of every other employee of the bureau shall be paid in the same way as the salaries of other state officers are paid. The legislative counsel shall be repaid all actual expenses incurred or paid by him in carrying out the provisions of this act. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 6. **Material available to bureau.** The material (including books and other publications) of the state library shall be made available to said bureau, and all the officers of the state, the University of California, and all departments, commissions and bureaus and other official state organizations, and all persons connected therewith, shall give the legislative counsel ready access to their records and full information and reasonable assistance in any matters of research requiring recourse to them or to data within their knowledge or control. The bureau may co-operate with any of the educational institutions of the state in any manner approved by the legislative counsel and such institutions. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 9. **Unexpended balance available.** The unexpended balance of the moneys heretofore appropriated for the support and salaries of the legislative counsel bureau by an act entitled "An act making appropriations for the support of the government of the state of California for the sixty-seventh and sixty-eighth fiscal years," approved May 19, 1915, is hereby made available to carry out the provisions of this act. [Amendment approved May 31, 1917; Stats. 1917, p. 1401.]

TITLE 300.

LEVEE DISTRICTS.

ACT 1913.

An act to provide for the formation of levee districts in the various counties of this state, and to provide for the erection of levees, dikes and other works for the purpose of protecting the lands within such districts from overflow and to levy assessments to erect and construct and maintain such levees, dikes and other works and to pay the necessary costs and expenses of maintaining said districts.

[Approved March 20, 1905. Stats. 1905, p. 327.]

Amended 1907, p. 333; 1911, p. 1212; 1917, p. 824.

The amendments of 1917 follows:

§ 8. **Board of trustees must keep office. Powers of trustees. Yearly estimate of costs. Report to board of supervisors.** The board of trustees must keep an office in or near the district for the transaction of the business thereof, and the books, maps, papers, records, contracts and other documents pertaining to the affairs of the district must be open for inspection to any person interested at all times. From and after the election and qualification of said trustee said district shall be deemed organized and shall have power to sue or be sued. The board of trustees shall have power to elect one of its members president thereof, to employ engineers and others, to survey, plan, locate and estimate the cost of the works and improvements necessary, in the way of erection or repair of levees, dikes and other works for the benefit of said district; to thereafter and at any time in its discretion modify or change said original plan or plans or to adopt any new supplemental or additional plan or plans, when in its judgment the same shall become necessary; to acquire by purchase, condemnation or otherwise, rights of way, and the right to take material for the construction of all works necessary for

the accomplishment of the objects of the district including drains, levees and embankments, and to construct, maintain and keep in repair all works, requisite and necessary to that end; and to do all other acts and things necessary or required for the protection of the lands in said district from the overflow of any river, stream, streams or watercourse, and to employ the service of any person legal or otherwise which in the judgment of said board of trustees may be necessary to the welfare of the district. The said board of trustees shall each year estimate the total cost for all purposes of erecting, constructing or repairing levees, dikes or other works, and doing the necessary things for the protection of the lands and property within said district from the overflow of any river, stream, streams or watercourse, and maintain the same for one year, including all damages awarded to any person by reason of the erection or construction of any of said levees, dikes or other works for protection, and shall thereupon make a report of the foregoing matters to the board of supervisors in which said district is situated, showing the amount of money required by said district for all purposes for one year thereafter. Said estimate of moneys necessary for said district for each year, and said report shall be made to said board of supervisors by said board of trustees on or before the first day of September of each year after the formation of said district and said estimate made as aforesaid and report to said board of supervisors by said board of trustees as hereinbefore set out, shall in each instance form the basis of the estimates of the board of supervisors for the amount of money required to be raised by assessment on the lands and personal property within such district for such year. [Amendment approved May 22, 1917; Stats. 1917, p. 824.]

ACT 1922.

An act authorizing levee districts of the state to incur a bonded indebtedness for the purpose of building, constructing, or repairing levees of the district; or for excavating and constructing ditches or canals of such districts; or for the purpose of acquiring rights of way for any such levees, ditches, or canals; or for any and all of said purposes.]

[Approved March 8, 1911. Stats. 1911, p. 303.]

Amended 1915, p. 914; 1917, p. 809.

The amendments of 1917 follow:

§ 1. Levee district may issue bonds. Report of engineer. Any levee district formed or organized by or under the laws of California, may incur a bonded indebtedness for the purpose of building, constructing, or repairing the levee or levees of such district; or in excavating or constructing any ditches or canals in such district, or other protective works; or to purchase and acquire any levee or levees, ditches or canals, or other reclamation works already constructed or in process of construction; or for the purpose of acquiring rights of way for any such levee, or ditches, pipe-lines or canals; or for building, repairing and constructing any and all kinds of work in water and river channels, wherever situate, as ancillary to land and levee protection, including the straightening

of river channels, or diverting waters from the dikes and levees themselves, or the lands they are protecting, and in general for doing any and all work of every character and description for the purpose of securing, protecting, guarding and preserving the lands protected, and the dikes, levees, ditches, excavations or other protective works; or for any and all of said purposes, or for any one or more of said purposes.

Whenever it shall become necessary in the opinion of the board of trustees of any such levee district to build, construct, or repair any levee for the protection of the lands of the district from overflow; or to excavate or construct any ditches or canals, or to purchase or acquire any levee or levee system or parts thereof then constructed or in process of construction; or for acquiring rights of way for either of such purposes of building, constructing, or repairing the levee or levees of such district; or in excavating or constructing any ditches or canals in such district, or other protective works, or to purchase and acquire any levee or levees, ditches, or canals or other reclamation works already constructed or in process of construction; or for the purpose of acquiring rights of way for any such levee, or ditches, pipe-lines, or canals; or for building, repairing any and all kinds of work in water and river channels, wherever situate, as ancillary to land and levee protection, including the straightening of river channels, or diverting waters from the dikes and levees themselves, or the lands they are protecting, or in general for doing any and all work of every character and description for the purpose of securing, protecting, guarding and preserving the lands protected, and the dikes, levees, ditches, excavations or other protective works, or for any and all of said purposes, or for any one or more of said purposes, the trustees of such levee district shall, by resolution, employ some civil engineer, and direct him to make a report in writing to said board of trustees, containing his recommendations as to the best method of doing said work. Said report shall show:

1. A description of the work to be done, including all ancillary work.

2. The plans, profiles, cross-sections and specifications of the work required.

3. A general description of the lands required for rights of way for the work, if any such are required.

4. An estimate of the expenses of such work, including an estimate of the cost of requiring rights of way for such work, should such rights of way be required.

5. An estimate of the cost or value of any levee or levees, ditches or canals already constructed or in process of construction, or advisable or proposed to be acquired as part of the proposed system, including all work necessary to be done for the protection of said main works and ancillary thereto, and including moreover the amount necessary for the maintenance of the work proposed to be done for the first year.

6. An estimate of all incidental expenses likely to be incurred in connection with the work, such as clerical, engineering, inspection, printing and advertising. [Amendment approved May 22, 1917; Stats. 1917, p. 809.]

§ 2. **Adoption of report.** After the report of the engineer provided for in the next preceding section has been filed with the board of trus-

tees of such levee district, said board shall consider the same and shall have power, by resolution, to adopt the same as filed by said engineer, or to modify or change the same, and to adopt the same as so modified or changed, and said report shall be adopted as originally presented if not modified or changed, but if modified or changed it shall be adopted as so modified or changed. [Amendment approved May 22, 1917; Stat. 1917, p. 811.]

§ 3. **Notice of adoption. Publication.** Within ten days after the adoption of the report as provided in section two of this act, the board of trustees of such levee district shall give notice thereof as hereinafter provided. Such notice shall specify a day and hour when and a place where any and all persons may appear before said board and show cause, if any they have, why said work provided for in said report should not be carried out in accordance therewith, said time to be not less than twenty nor more than forty-five days from the adoption of said report.

Said notice shall briefly outline the proposed work, and shall refer to the said report on file with said board for a particular description of the work to be done. Such notice shall be given by conspicuously posting in three of the most public places within said district, and publishing in some newspaper printed and published in the county where said district is situated, or if said district is situated in more than one county then by posting in three of the most public places in that portion of the district, situated in each county and by publishing in a newspaper printed and published in each of the counties wherein any portion of said district is situated, for a period of three weeks prior to the day of hearing. Said publication shall be made once a week for three consecutive weeks in a newspaper of general circulation published in the county where said district is situated. If said district comprises land situated in more than one county, then once a week for three consecutive weeks in a newspaper of general circulation in each of the counties where said lands are situated. It shall not be necessary that publication shall be made on the same day of the week in each of the three weeks, but not less than sixteen days, including the day of the first publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication. [Amendment approved May 22, 1917; Stats. 1917, p. 811.]

§ 5. **Board may confirm resolution. Report of engineer.** The board of trustee shall have power to set aside, modify, or confirm the resolution provided for in section two of this act; in case the board shall decide that it will be for the best interests of the district to proceed with the work, it shall, by resolution, so declare; and in case the said original plan of the work shall have been modified or changed, the board shall direct the engineer of the district to estimate the cost of the work in accordance with the plan so modified or changed, and to report the same to the board. The engineer of the district shall thereupon, in case such original plan shall have been changed or modified, make a report to the board in accordance with the modifications or changes adopted by it, and such report must show:

1. A description of the work to be done as changed or modified by the board, including all ancillary work.

2. The plans, profiles, cross-sections and specifications of the work as so changed or modified by the board.

3. A general description of the lands required for rights of way for the work, if any such are required.

4. An estimate of the expense of such work in accordance with the plan so modified or changed by the board, including an estimate of the cost of acquiring rights of way for such work, if any such rights are acquired.

5. An estimate of the cost or value of any levee or levees, ditches or canals already constructed or in process of construction, proposed to be acquired as part of the proposed system.

6. An estimate of all incidental expenses likely to be incurred in connection with the work as planned, such as clerical, engineering, inspection, printing and advertising, including all work necessary to be done for the protection of said main works, and ancillary thereto, and including furthermore the amount necessary for the maintenance of the work proposed to be done, for the first year. [Amendment approved May 22, 1917; Stats. 1917, p. 812.]

§ 7. Bonds for levee districts. Order for election. Conduct of election. Contests. Duty of supervisors. Form of bond. Form of interest coupon. Whenever in the judgment and opinion of the board of trustees in said district it would be for the best interests of said district, or the land owners therein, to issue bonds for the purpose of obtaining money to pay the cost of construction of said levee or levees, ditches or canals, or other protective works, or to purchase in whole or in part any system of levee, or levees, ditches or canals already constructed or in process of construction, or for any of the purposes set forth in section one of this act, or when a petition requesting them so to do, signed by the owners of more than one-half of the land of the district, is filed with the secretary of the board, the board of trustees of such district shall, by order entered upon the records of said board, order a special election to be held for the purpose of submitting the question of the issuance of bonds to the taxpayers of said district. Said order shall specify the amount of bonds it is proposed to issue which, in any case, shall not exceed the entire estimate of the expense of the work as planned, shall specify the rate of interest to be paid, not exceeding seven per cent, and the number of years, not exceeding forty, the whole or any part of said bonds are to run, and shall name a time and place for the holding of such election, which place shall be at some convenient place in the district. In the case of joint levee districts the said order shall specify a polling place within the district in each county, in which a portion of the district lies. The board shall also appoint one inspector, two judges and one clerk to conduct said election at each and every polling place designated, all of whom must be electors and taxpayers of said district. Notice of such election shall be given by publication, in a newspaper printed and published in the county in which said district or some part thereof is situated once a week for at least three weeks prior to such election. If said district is situated in more than one county, then publication shall be made in a newspaper printed and published in each county wherein a portion of said district is situated, and the provisions relating to publica-

tion provided in section three hereof shall apply, and such notice must contain a time and place for the holding of such election, the names of the election officers to conduct the same, and amount and denominations of the bonds, the rate of interest to be paid, and the number of years, not exceeding forty, the whole or any part of said bonds are to run. If any election officer appointed by said board and named in such notice is not present at the time for the opening of the polls, the voters present may appoint an election officer to take the place of such election officer so absent. Before opening the polls each officer of election must take and subscribe an oath faithfully to perform the duties imposed upon him by law. Any voter of the district may administer and certify such oath.

The polls shall be kept open for receiving votes from ten o'clock A. M. until four o'clock P. M. At such election any voter qualified to vote for the election officers of said district and none other shall be permitted to vote thereat, and such election shall be held as nearly as practicable in conformity with the general election law of the state, except that no sample ballot need be sent out, except that registration shall not be required, and except also that persons voting at such bond election shall put a cross (×) upon the ballots with pencil or ink after the words: "bonds—yes" and "Bonds—no" (as the case may be) to indicate whether they have voted for or against the issuance of the bonds. The said ballots shall be of the form: "bonds—yes" and "bonds—no," or words of similar import, together with a general statement of the amount and purpose of the bonds to be issued.

At the close of the polls the board or boards of election shall at once proceed to count the votes and declare the result, and shall forward a certificate showing the same and the number of votes cast for and against the issuance of the bonds to the clerk of the board of supervisors of the county in which the greater portion of the lands of said district is situated, and deliver a duplicate thereof to the board of trustees of the district, and shall also deliver to the clerk of the said board of supervisors all ballots cast at such election, and all documents and papers used at such election.

Any person owning land situated in said district may contest said election within twenty days after the result thereof has been declared by the board of supervisors, by filing a complaint in the superior court of the county where said land is situated, and if no contest shall be commenced within said time the declaration of the result by the board of supervisors shall be final and conclusive.

The returns of such election shall be canvassed and the result declared by the board of supervisors of the county to whom such returns of election are made, at a special meeting called for that purpose or at the next regular meeting of such board after such election. No ballot shall be rejected because of any distinguishing marks made thereon. If a majority of the voters of the district voting at such election shall vote in favor of the issuance of bonds, the board of supervisors shall be, and it is, authorized and directed to issue bonds of said district to the number and amount provided in such proceedings, payable out of the bond fund of such district, naming the same, and provide that the money shall

be raised by taxation upon the taxable property in said district for the redemption of said bonds and the payment of interest thereon, provided that the total amount of bonds so issued shall not exceed the entire estimate of the expense of the work as planned or determined by section one, together with the expense of the maintenance of said works for one year after their completion.

The board of supervisors to whom said returns of election are made, by an order upon its minutes shall prescribe the form of said bond and the interest coupons attached thereto, and provide whether the same shall be paid in lawful money of the United States or in gold coin, and fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof; and said bonds shall be issued in sums of not less than one hundred dollars nor more than one thousand dollars each, and shall not have more than forty years to run, and shall bear interest at a rate not exceeding seven per cent per annum, payable semi-annually, and said bonds shall be substantially in the following form:

STATE OF CALIFORNIA.

No. —— $ ——

Bond of

—— Levee District.

In the county (or counties) of ——
state of California.

—— district, of the county of (or counties of) ——, state of California, for value received, hereby acknowledges itself indebted and promises to pay to the holder of this bond on the first day of ——, 19—, at the office of the treasurer of the county of —— in the city of ——, state of California, the sum of —— dollars in gold coin (or lawful money) of the United States, with interest at the rate of —— per cent (—%) per annum, payable semi-annually upon the first day of —— and the first day of —— of each and every year from and after the date hereof, at the office of the treasurer aforesaid, on presentation and surrender of the interest coupons hereto attached, until this bond is fully paid. This bond is issued by the board of supervisors of the said county of —— in conformity with the resolution of said board dated the —— day of —— 19—, and under the authority conferred upon the said board by the provisions of the act of the legislature of the state of California, entitled "An act authorizing levee districts of the state to incur a bonded indebtedness for the purpose of building, constructing and repairing levees of the district, or for excavating and constructing ditches or canals of such district, etc.

(Here will be inserted in the final draft the correct designation of the act approved March 8, 1911, together with acts amendatory thereof.)

It is hereby declared that said —— levee district is a levee district duly created, organized, established and incorporated in strict conformity to the laws of the state of California relating thereto.

It is furthermore declared that a majority of the qualified electors of said levee district voting at a special election held therein on the —— day of —— 19—, which said election was held to determine whether

bonds of said levee district, in the amount of $—— should be issued and sold for the purpose of raising money for the purposes prescribed in said act, voted in favor thereof.

It is hereby further declared that said election was duly called, duly held and duly conducted and the notices thereof duly given, and the result thereof canvassed and declared in accordance with the provisions of the act above mentioned, and that all other proceedings of the board of supervisors of such —— levee district, and of the board of supervisors of said county, in the matter of the issuance of this bond, were regular and in strict accordance with the provisions of the said act above mentioned, and the constitution of the state of California; and that the total bonded indebtedness of said district authorized at said election does not exceed the entire estimate of the expense of the work planned and the cost of the maintenance of said work for one year after the date of their completion.

This bond is in the form prescribed by the order of said board of supervisors, duly made and entered in its minutes on the —— day of ——, 19—, and in substantial conformity to the form prescribed by said act, and this bond shall be payable out of the bond fund of said —— levee district, and the money for the redemption of said bond, and the payment of the interest thereon, shall be raised by taxation upon the taxable property of said district.

In witness whereof the said board of supervisors has caused this bond to be signed by its chairman and by the auditor of said county, with its seal of office attached this —— day of ——, 19—.

—— ——,

Chairman of the board of supervisors of the county of ——.

Attest: —— ——.

Auditor of —— county.

The interest coupon shall be in the following form:

On the —— day of ——, 19—, the treasurer of the county of ——, state of California, will pay to the holder hereof out of the bond fund of the —— levee school district of said county, at his office in the city of —— in said county, the sum of $—— for interest on bond of said district, No. ——.

§ 8. Bonds to be numbered and signed. Bonds issued under this act shall be numbered consecutively, signed by the chairman of the board of supervisors and attested by the county auditor, who shall affix thereto his official seal. The coupons shall be numbered consecutively and signed by the treasurer by original, or engraved, or lithographed facsimile signature, and the bonds and coupons shall be payable at the office of the county treasurer. In case any officer whose signature or attestation or countersignature appears on any bonds or coupons thereof issued under the provisions of this act shall cease to be such officer before the sale or delivery of said bonds to the purchaser thereof, such signature, countersignature or attestation appearing either on the bonds or the coupons or on both shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the sale or delivery of such bonds. [Amendment approved May 22, 1917; Stats. 1917, p. 812.]

§ 8a. Sale of bonds. Said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par. The

board of supervisors may sell all the bonds of said issue at one time, or may sell less than the whole, to wit, any part thereof, at one time, and from time to time. In the event the whole, or any part of said issue of bonds, may be offered for sale at one time, the board of supervisors may sell either the whole or any lesser number of the bonds so offered for sale. All moneys realized from the sale of said bonds shall be placed on deposit with the county treasurer to the credit of the bond fund of said district, and shall not be expended for any purpose other than that for which said bonded indebtedness was incurred as specified in section one of this act. [New section added May 22, 1917; Stats. 1917, p. 816.]

§ 8b. Action to have bonds declared valid. Summons. Treasurer's record. As soon as said bonds shall have been delivered to said county treasurer, the board of trustees, or any holder of title, or evidence of title, including possessory rights, to lands contained in the district, may, in order to determine that said bonds are a legal obligation of the district, institute a proceeding therefor in the superior court of the county in which the district was organized by filing with the clerk of said county a complaint setting forth that on a date therein named bonds of said district were delivered to the said treasurer, stating the amount of such bonds, and praying that such bonds be adjudged to be a valid legal obligation of such district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within thirty days after the last publication thereof shall have been completed and proof thereof filed with the court, any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of said bonds. If no answer shall be filed within said time, the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California. In the event said district comprises lands situated in more than one county, such action shall be brought in the superior court of the county in which the larger portion of the district is situated.

The treasurer of the county shall keep a record of all bonds by number, date of sale, amount, date of maturity, and the name and postoffice address of the purchaser when known, which record shall be open at all times for public inspection. [New section added May 22, 1917; Stats. 1917, p. 817.]

§ 8c. Bonds exempt from taxation. Bonds legal investment. Any bonds issued by any levee district under the provisions of this act are hereby given the same force, value and use as bonds issued by any municipality and shall be exempt from all taxation within the state of California.

The bonds of levee districts issued pursuant to this act may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators, and special administrators,

or by any public officer or officers of this state, or of any county, city, or city and county, or other municipal or corporate body within the state, having or holding bonds [funds] which they are allowed by law to invest or loan. [New section added May 22, 1917; Stats. 1917, p. 817.]

§ 9. Tax to pay interest and principal. Levy and collection. Lien on property. Levy and collection of tax when land situated in more than one county. In addition to any other estimate which the board of trustees may be required by law to make and to submit to the board of supervisors of the county in which said district is situated, the board of trustees, on or before the first day of September of each year, shall certify to the board of supervisors, if said district is situated in one county, but if it comprises lands situated in more than one county, then the respective boards of supervisors of each county within which lands of said district are situated, the amount of interest upon all outstanding bonds to grow due within the said year, and the amount of moneys necessary to redeem any or all outstanding bonds that may grow due in said year. At the time when by law it is the duty of the board of supervisors of said county to fix the annual tax rate of such county, said board of supervisors must levy a tax upon the taxable property situated in such levee district, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest on said bonds for that year and such portion of the principal as is to become due during such year, and such proportion of the principal that at the end of ten years the sum raised from such levies shall equal at least twenty-five per cent of the amount of bonds issued, at the end of twenty years at least fifty per cent of the amount, and at and before the date of the maturity of the bonds shall be equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund, and shall be used for the payment of bonds and interest coupons and for no other purpose whatever; and the county treasurer shall open and keep in his book a separate and special account which, at all times, shall show the exact condition of such bond fund.

Such tax shall be levied on all property in the territory comprising the district, and shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be held by the treasurer for the credit of said district, to be paid by orders of such treasurer issued under the authority of and signed by the president of the board of trustees of said district. Such taxes shall be a lien on all the property within the territory comprising the district, and of the same force and effect as other liens for taxes, and its collection shall be enforced by the same means and in the same manner as provided for in the enforcement of liens for county taxes.

In the event the said district comprises land situated in more than one county, then said estimate shall be furnished to the board of supervisors of each of the counties within which said lands of said district are situated. In such case at the time when by law it is the duty of the board of supervisors of said respective counties to fix the annual tax rate of each county, it shall be the duty of the board of supervisors of each of said counties respectively to levy a tax upon the taxable property in such levee district as may be situated in said county for the interest and redemption of said bonds, and such tax must not be less in

the aggregate than sufficient to pay the interest on said bonds for that year and such portion of the principal as is to become due during such year, and such portion of the principal that at the end of ten years the sum raised from such levies shall equal at least twenty-five per cent of the amount of bonds issued, at the end of twenty years at least fifty per cent of the amount, and at and before the date of maturity of the bonds shall be equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund and shall be used for the payment of bonds and interest coupons and for no other purpose whatever. The county treasurer of each county shall open and keep in his book a separate and special account which shall at all times show the exact condition of such bond fund. Such tax shall be levied on all property in the territory comprising the district situated in said county, and shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be held by the treasurer of each of said counties. Upon the first days of January, April, July and October of each year succeeding the date of issuance of said bonds, the county treasurer of each county, other than the county wherein the larger portion of the lands of said district is situated, shall transmit to the county treasurer of the county in which the larger portion of the lands of said district is situated all sums then in his possession in said bond fund, and the county treasurer of the county in which the larger portion of the lands of said district is situated shall issue his receipt therefor. Such taxes shall be a lien upon all the property within the territory comprising the district, and of the same force and effect as other liens for taxes, and the collection of said taxes shall be enforced by the same means and in the same manner as provided by law for the enforcement of liens for county taxes. [Amendment approved May 22, 1917; Stats. 1917, p. 818.]

§ 10. **Redemption of bonds.** Whenever there shall be in the bond fund of such district a surplus of one thousand dollars or more, over and above the interest maturing before the next levy, the treasurer shall give notice for two weeks in one or more newspapers of general circulation, printed and published in the county in which such district is situated, stating the amount of such surplus, and that on the day and hour named in such notice, sealed proposals will be received at his office for the surrender of bonds of the district, and shall at the time and place named open the proposals and accept the lowest bid; provided, that no bid shall be accepted for an amount exceeding the par value of such bonds with accrued interest; if bids are not offered at par, or less, sufficient to exhaust the amount on hand applicable to redemption, the treasurer shall publish for the same time and in the same manner a notice that he will redeem a bond or bonds of said district, giving the number or numbers thereof, and that if not presented for redemption within thirty days after the date of the first publication of such notice, the interest thereon will cease, and the amount due thereon will be set aside for the payment of such bond or bonds whenever presented. If any such bond be not so presented, interest thereon shall cease, and the amount due thereon shall be set aside as specified in said notice. All redemption of bonds other than those voluntarily surrendered shall be made in the exact order of

their numbering, beginning with the lowest or first number. [Amendment approved May 22, 1917; Stats. 1917, p. 819.]

§ 11. Act full authority for issuance and sale of bonds. Levee district fund. This act shall without reference to any other act of the legislature of the state of California be full authority for the issuance and sale of the bonds in this act authorized, which bonds shall have all the qualities of negotiable paper under the law merchant, and when executed by the officials as provided in this act in conformity with the provisions of this act, and when sold in the manner prescribed therein and the consideration therefor received by the county treasurer for the benefit of said district, shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof, and shall be incontestible in the hands of bona fide purchasers or holders thereof for value. The moneys obtained from the sale of such bonds shall be by the county treasurer placed in a fund to be called the "—— levee district fund," and all payments of any of the expenses of the work or improvements for which said bonded indebtedness was incurred shall be paid out upon warrants drawn by the board of trustees of said levee district. [New section added May 22, 1917; Stats. 1917, p. 820.]

ACT 1923.

An act to create a levee district to be called and designated Sacramento River west side levee district; to prevent the overflow of flood waters from the Sacramento River from flooding on to the lands within said district by the construction of levees along the west bank of the Sacramento River and adjacent thereto and maintain the same; providing for the election and appointment of officers of said levee district; defining the powers, duties and compensation of such officers; and providing for levying and collecting assessments upon the lands within said levee district.

[Approved May 18, 1915. Stats. 1915, p. 516.]

Amended 1917; Stats. 1917, p. 1211.

The amendment of 1917 follows:

§ 3. Election. Manner of conducting. Commissioner takes office when. An election shall be held within forty days after the date upon which this act shall take effect, and on the last Monday of October of every fourth calendar year thereafter, at which election said commissioners shall be elected. Said first election shall be called by the reclamation board created by that certain act of the legislature of the state of California, entitled: "An act approving the report of the California debris commission transmitted to the speaker of the house of representatives by the secretary of war on June 27, 1911, directing the approval of plans of reclamation along the Sacramento River or its tributaries or upon the swamp-lands adjacent to said river, directing the state engineer to procure data and make surveys and examinations for the purpose of perfecting the plans contained in said report of the California debris commission and to make report thereof, making an appropriation to pay the expenses of such examinations and surveys, and creating a reclamation board and defining its powers," approved Decem-

ber 24, 1911, or such board as may by law be made its successor. Said reclamation board shall also designate the voting place for said first election and for all succeeding elections. Notice of the time and place of holding all elections shall be given by said reclamation board by publication once a week for two weeks next preceding such election, in some newspaper published in Colusa county and also in some newspaper published in Yolo county. In the first election the reclamation board shall, prior to the election, procure from the assessors of said counties of Yolo and Colusa, respectively, a list certified by such assessors, respectively, containing a description of all the lands of the district situated in such counties, the name of the person to whom each tract is assessed and the acreage thereof as it appears from the last prior assessment-roll of said counties, which said list shall be furnished to and be used by the board of election hereinafter described in determining the number of votes each voter is entitled to cast. In all elections said reclamation board shall appoint an inspector and two judges of election, who shall constitute a board of election for such voting place. At the first election of commissioners each owner of land within said levee district as above defined, shall be entitled to cast one vote, in person or by proxy, for each commissioner to be elected therein for each acre of land or fraction thereof owned by such land owner within said district, such acreage to be determined by the aforesaid assessment-roll of the county in which the same is situated. In case of town lots, or where the acreage is not stated, the board of election officers shall determine the amount of acreage therein. The estates of minors, incompetents, deceased persons and beneficiaries under a trust shall be represented by the guardian, executor, administrator or trustee in person. Where a tract is situated partly within and partly without the boundaries of such district, and the assessment-roll contains the acreage of said tract of land as a whole, the same must be apportioned according to the number of acres lying within and without the boundaries of said district. In the case of all elections after the first election hereinbefore provided for, each land owner in said district shall be entitled to cast one vote, either in person or by proxy, for each commissioner to be elected therein for each dollar, or fraction thereof, assessed against his land, as shown by the first assessment list in said district as prepared by the assessors and heretofore filed with the reclamation board, as provided in section six of this act, or in the event that said assessment list has been equalized by the said reclamation board before the time of said election, then as shown by the said assessment list so equalized by the reclamation board. No person shall vote by proxy at such election, unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property, and filed with the board of election. In case no board of election shall be appointed, or if any member thereof shall fail or refuse to serve, the land owners present at the time of the opening of such election may appoint such board of election or supply the place of an absent member. Each member of the board of election must, before entering upon the discharge of his duties, be sworn to perform them faithfully. Any person entitled to vote at such election may administer the oath. The polls shall be kept open from ten o'clock A. M. till four o'clock P. M. on the day of said

election. The board of election must keep a list of the names of the persons voting at such election, together with a statement of the number of votes cast by each, and shall canvass the votes and make a return thereof showing the number of votes cast for each person for levee commissioner and shall return therewith said list containing the names of the land owners voting at such election. Such election shall be by ballot, which ballots must contain the name of the person voting same, the total number of votes cast, the names of the persons voted for and the number of votes cast for each of said persons. The ballots must be inclosed in an envelope by the election board, and delivered, with the election returns, to the said reclamation board, and said reclamation board shall cause a certificate of election to be issued within five days to the person or persons receiving the highest number of legal votes. If a certificate of election shall be issued to any person who has not received the highest number of legal votes, and upon an affidavit being filed by a land owner in the said levee district, setting forth that such person did not receive the highest number of legal votes, and giving the names of the persons who cast illegal votes for such person, and the number of such illegal votes so cast, the said reclamation board shall canvass the election returns, and hear evidence touching the legality of any votes cast, and may revoke such certificate of election and issue a certificate to the person legally elected. Within fifteen days after receiving a certificate of election, and before entering upon the duties of his office, each levee commissioner shall take the oath of office prescribed by law, and file the same in the office of said reclamation board. All vacancies in the board of levee commissioners shall be filled by the said reclamation board, and such appointee shall hold office until the next succeeding election, and the qualification of his successor. Such person shall possess the same qualifications as an elected commissioner. [Amendment approved May 26, 1917; Stats. 1917, p. 1212.]

§ 7. Charges become lien. Statement that assessment delinquent. Sale of property. Purchase by district. Redemption. Land not charged to be later charged. Correction of errors. To whom payments made. Moneys deposited in treasury. From and after the filing of the original list with the county treasurer of Colusa county, and from and after the filing of the duplicate original list with the county treasurer of Yolo county, the charges assessed upon any tract of land within each respective county shall constitute a lien thereon, and shall impart notice thereof to all persons. No subsequent act or conduct of the commissioners shall invalidate said assessment or lien, but such commissioners may be compelled by mandate or other proper proceeding to perform their duties, as required by law. The list thus prepared and filed must remain in the offices of the respective treasurers for thirty days from such filing, or longer if ordered by the board of levee commissioners, and during the time they so remain, any person may pay the amount of the charge assessed against any tract of land to the treasurer of the county in which such tract is situated, in gold coin of the United States, or in warrants of the district. At the end of thirty days the treasurers must return the lists to the board of commissioners of the district. The said board, from time to time in its discretion, may, by order entered in its

minutes, direct the said assessment to be collected and paid in separate installments, of such amounts and at such time, respectively, as the said board may determine. After any order has been made calling in an installment of assessment, the secretary of the said district, for the information of the land owners, shall mail to each land owner, as described in the said assessment list, if his address be known to such secretary, or, if not, then to the county seat of the county in which such land may be situated, a statement stating the amount of the call of such assessment, and stating further that said installment, if unpaid at the expiration of thirty days from the date of such order, shall become delinquent, which said statement shall be mailed by said secretary within ten days after the date of any such order calling in any installment of such assessment, and each installment of assessment, from the time of the order of said board directing the same to be collected and paid, shall bear interest at the rate of seven per cent per annum until paid; if any such installment shall remain unpaid at the expiration of thirty days from the date of the order, then said installment shall become delinquent, together with the accrued interest thereon, and ten per cent of the amount of said installment and interest shall be added thereto, and collected for the use of the district; provided, further, that the commissioners must on the first day of January of each year, order the collection of a sufficient amount of said assessment to pay all warrants that have been issued and outstanding for a period of two years or more, together with the interest on such warrants. Immediately after the said installment has become delinquent, the board of levee commissioners must publish a notice at least once each week for three weeks in some newspaper of general circulation published in the county or counties in which any land upon which such installment may be delinquent is situated, which notice shall contain a description of the property assessed, the name of the person to whom it is assessed, or a statement that it is assessed to unknown owners, if such be the fact; the amount of the delinquent installment, the amount of the interest at the date of delinquency, the amount of the penalty that has been added as above provided, and a notice that the property assessed will be sold on a date therein stated, at such time and place in said district as the board of commissioners may in said notice designate, to pay said installment with accrued interest and the penalty hereinbefore specified. At the time stated in said notice, or such other time to which said sale may have been postponed, the commissioners must sell said property to the highest bidder for gold coin of the United States. Out of the proceeds of said sale the commissioners must pay the amount of said installment with the accrued interest thereon and the penalty herein provided for to the county treasurer of the county of Colusa who shall place the same in the proper funds of said district, and the commissioners must pay to the owner of said property any surplus remaining after such payment to said county treasurer. The commissioners may postpone said sale from time to time by a written notice posted at the place of sale. If no bid is made for said property equal to the amount of said installment, accrued interest and penalty, the district shall become the purchaser, and the said property must be struck off to the district for the amount of said installment, accrued interest and penalty. A certificate of such sale shall

be executed by the commissioners of said levee district to the purchaser, or to the district, if the property shall have been struck off to the district, and said certificate of sale shall be recorded in the office of the county recorder of the county in which the land sold is situated, or if situated in two counties, then in the office of the county recorder of each thereof. Any person interested in said property may redeem the same at any time within one year after the date of said sale, by paying in gold coin or in warrants of said district, to the county treasurer of Colusa county the amount of said installment with the accrued interest and penalty, and interest on the said sums at the rate of two per cent per month from the date of said sale.

If no redemption shall be made within said one year, the purchaser, or the district, if said property shall have been sold to the district, shall be entitled to a deed executed by said commissioners, and the effect of such deed shall be to convey said property free of all liens and encumbrances, excepting state, county and municipal taxes, and the liens of assessments now levied or which may hereafter be levied by any of the reclamation districts situate within said levee district, or by the Knights Landing Ridge drainage district, and the unpaid balance of said assessment of said levee district, if any, which said balance must be called in and collected in the same manner as other assessments; provided, that where said property shall have been deeded to the district and shall not have been sold by the commissioners, the same shall not be offered for sale for subsequent installments of said assessments so long as the district shall remain the owner of said property, but the commissioners may sell said property at any time at public auction after notice given for the same period and in the same manner as is herein provided for sales for delinquent installments, but not for a sum less than all delinquent unpaid installments with accrued interest and penalties, and the deed executed in pursuance of such sale shall convey said property free of all encumbrances, except state, county and other municipal taxes, the lien of any assessments levied or which may hereafter be levied by any reclamation district within said levee district, or the Knights Landing Ridge drainage district, and the unpaid balance of said assessment.

In all cases where an assessment has been, or shall hereafter be, levied for any purpose on the lands embraced within said levee district, if, for any reason, any tract or tracts of land shall not have been charged with said assessment, then such tract or tracts of land shall be charged in any subsequent assessment with such proportion of the former assessment as the benefits derived by said lands from the levee works, for which said former assessment was levied, bears to the whole amount of said former assessment; or a subsequent reassessment of such tract or tracts of land may be made separately for the purpose of charging said land with its proper proportion of the costs of levee protection. Such reassessment shall be made by assessors appointed by the reclamation board, as provided by this act, and must be made and approved in the same manner as other assessments. The assessors appointed by the reclamation board must make a list of the charges assessed against each tract of land; and, if there be any error or mistake in the description of the land or in the name of the owner, or if any land which should be assessed has been, or shall be, omitted from the list, or if there is

any error or mistake in any other respect, the said assessors may amend or correct the same at any time before the filing of such list with the reclamation board as hereinbefore provided. Where payment is made in warrants of the district, legal interest must be computed thereon from the date thereof to the time of such payment, when said warrants must be surrendered to the county treasurer of the county of Colusa and by him canceled.

In the event that any land owner of the said district shall have paid the amount, or any portion of the amount, assessed against any tract of land before said assessment shall have been adjudged invalid, in whole, or in part, the amount so paid by said land owner, together with legal interest thereon from the date of such payment, shall be a credit and shall be credited by the treasurer of the county where the assessment list is filed, or by said district, or upon any subsequent assessment on the tract of land on which the said invalid assessment was paid, or be applied in satisfaction pro tanto of any such subsequent assessment thereafter levied on said tract.

All installments of assessment, after the original list and the duplicate original have been returned by the respective county treasurers to the board of levee commissioners that may be called in, shall be paid to the secretary of said board of levee commissioners, and the same and also all proceeds from any delinquent sale shall be paid into the county treasury of the county of Colusa, and be placed by the treasurer thereof to the credit of said district, and paid out upon warrants issued by the board of levee commissioners. At any time an assessment on any tract of land may be paid in full, notwithstanding the same has not been called in by the board of levee commissioners.

All moneys received from any source by the board of levee commissioners shall be paid by the said board, or the secretary thereof, into the county treasury of Colusa county, and be placed by the treasurer to the credit of the district, and paid out upon the warrants of the board of levee commissioners in the manner hereinbefore provided.

On the first Monday of each month the county treasurer of Yolo county shall transmit to the county treasurer of Colusa county all moneys that may be in his hands to the credit of said district arising from any source, and, likewise, all warrants that may be delivered in payment of any assessment, and all such moneys shall thereupon be placed to the credit of said district by said county treasurer of Colusa county. [Amendment approved May 26, 1917; Stats. 1917, p. 1214.]

§ 3. **Repealed.** All acts and parts of acts in conflict with this act are hereby repealed.

TITLE 310.

LOS ANGELES CITY.

ACT 1977.

Charter of Los Angeles. [Stats. 1889, p. 455.]

Amended 1903, p. 555; 1905, p. 980; 1907, p. 1160; 1909, p. 1289; 1911, p. 2051; 1913, p. 1629; 1915, p. 1686; 1917, p. 1686.

ACT 1991.

An act granting to the city of Los Angeles the tide-lands and submerged lands of the state within the boundaries of the said city.

[Approved May 1, 1911. Stats. 1911, p. 1256.]

Amended 1917; Stats. 1917, p. 159.

The amendment of 1917 follows:

§ 1. **Tide-lands granted to Los Angeles.** There is hereby granted to the city of Los Angeles, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to all tide-lands and submerged lands, whether filled or unfilled, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions, following, to wit:

(a) **Purposes for which lands may be used.** That said lands shall be used by said city, and by its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon for limited periods, in any event not to exceed thirty years for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, in any event not to exceed thirty years for any and all purposes which shall not interfere with commerce or navigation, and are not inconsistent with the trusts upon which said lands are held by the state of California;

(b) **Harbor improved without expense to state.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California;

(c) **No discrimination in rates.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city, or by its successors;

Right to fish reserved to people. Reserving, however, in the people of the state of California, the absolute right to fish in the waters of said

harbor, with the right of convenient access to said waters over said lands for said purposes. [Amendment approved April 20, 1917; Stats. 1917, p. 159.]

ACT 1991d.

An act to appropriate money to be expended under the direction of the state board of control in co-operation with the federal government to carry out the project adopted by congress for the protection of the navigability of Los Angeles and Long Beach harbors, and providing for the future completion of the entire project. [Approved May 15, 1917. Stats. 1917, p. 533. In effect July 27, 1917.]

The act appropriated $250,000 for the purpose indicated.

ACT 1991e.

An act to appropriate money to be used as a revolving fund by the sixth district agricultural association for the purpose of creating, installing and maintaining special expositions at Exposition Park, Los Angeles. [Approved June 1, 1917. Stats. 1917, p. 1619.]

The act appropriated $50,000 for the purpose indicated.

TITLE 311.

LOS ANGELES COUNTY.

ACT 2016.

An act to validate bonds of the Los Angeles county flood control district and all proceedings relating thereto, and making final and conclusive, except as therein provided, the official canvass of election returns of the election at which said bonds were voted.

[Approved May 5, 1917. Stats. 1917, p. 239. In effect July 27, 1917.]

§ 1. **Los Angeles county flood control district bonds validated.** Bonds in the amount of four million four hundred fifty thousand dollars of the Los Angeles county flood control district, and all the acts and proceedings of said district, leading up to and including the authorizing and issuance of said bonds, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, which district was created by the Los Angeles county flood control act, approved June 12, 1915, and which bonds were authorized by virtue of an election held in said district on February 20, 1917, at which a majority of the votes cast were in favor of incurring such bonded indebtedness, as found and determined by the board of supervisors of said district upon canvassing such election returns, and which finding and determination of the result of said election shall be and is hereby declared to be final and conclusive against all persons except the state of California upon suit commenced by the attorney general. Any such suit must be commenced within thirty days after this act takes effect and not otherwise.

And all said bonds when issued and sold as in said act provided shall be and are hereby declared to be legal and valid obligations of said district, and the faith and credit of said Los Angeles county flood control district is hereby pledged for the prompt payment and redemption

of the principal and interest of said bonds and said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings leading up thereto, and that they were duly authorized at said election.

TITLE 321.

MANUFACTURES.

ACT 2063.

An act to provide for the registration of factories, workshops, mills and other manufacturing establishments.

[Approved June 2, 1913. Stats. 1913, p. 444.]

Amended 1917; Stats. 1917, p. 270.

The amendment of 1917 follows:

§ 1. Registration of factories. Notice by commissioner of labor. The owner of any factory, workshop, mill or other manufacturing establishment, where five or more persons are employed, shall register such factory, workshop, mill or other manufacturing establishment with the bureau of labor statistics, giving the name of the owner, the name under which the business is carried on, the location of the plant, the address of the general offices or principal place of business and such other information as the commissioner of labor shall require. Such registration of existing factories, workshops, mills or other manufacturing establishments shall be made on or before January 1, 1914. All factories, workshops, mills or other manufacturing establishments hereafter established shall be so registered within thirty days after the commencement of business. Within thirty days after a change in the location of a factory, workshop, mill or other manufacturing establishment the owner thereof shall file with the commissioner of the bureau of labor statistics the new address.

Whenever the commissioner of labor shall have been notified or otherwise becomes aware of the existence of a new factory, or factories, he shall forward a notification of said fact on or before the tenth day of each month to the state board of health and to the board of health or the health officer of the city and county wherein said factory or factories may be located.

TITLE 322.

MAPS.

ACT 2066.

An act to cure defects in maps or plats filed for record prior to January 1, 1917, and in deeds or conveyances referring to such maps.

[Approved June 1, 1917. Stats. 1917, p. 1653.]

§ 1. Defects cured in maps filed prior to January 1, 1917. Any map or plat recorded or filed with the county recorder of the county in which the lands shown on said map or plat are situated prior to the first day of January, one thousand nine hundred seventeen, shall for all purposes be deemed to have been properly so recorded or filed and to comply with all the requirements of the laws in force at the time it was so recorded

or filed, notwithstanding any defect, omission or informality in the preparation or execution of such map or plat or of the affidavits, certificates, acknowledgments, indorsements, acceptances of dedication or other matters thereon or required to be thereon by any law in force at the time of such recording or filing, and all sales or conveyances of land by reference to any such map or plat shall be valid as though said map or plat had been made, certified, indorsed, acknowledged and filed in all respects in accordance with the laws in force at the time said map or plat was so recorded or filed. And any deed or conveyance referring to any such map or plat which, prior to the passage hereof, was copied into the proper book of records kept in the office of any county recorder shall impart after the passage hereof notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission or informality in the preparation or execution of such map or plat or of the affidavits, certificates, acknowledgments, indorsements, acceptances of dedication or other matters thereon or required to be thereon by any law in force at the time of such recording or filing.

TITLE 326.

MARKS AND BRANDS.

ACT 2103.

An act requiring the labeling of articles offered for sale and intended for personal wear, manufactured in state penitentiaries, reform schools or other institutions supported at public expense, and requiring that notice that such goods are on sale, shall be conspicuously posted in places where said goods are offered for sale.

[Approved May 5, 1917. Stats. 1917, p. 249. In effect July 27, 1917.]

§ 1. **Articles manufactured at state institutions must be labeled.** No person, persons, firm or corporation, by themselves, their agents or employees shall sell, offer for sale or expose for sale, or have in his or their possession for sale, any article intended for personal wear which was manufactured at a state penitentiary, state reform school or at any other institution supported at public expense and located without the boundaries of the state of California, unless said article shall have affixed, stamped or imprinted thereon, a label in letters three-eighths of an inch in height, designating the state penitentiary, state reform school or other public institution, where said article was manufactured.

§ 2. **Notice that articles manufactured at state institutions are for sale.** No person, persons, firm or corporation, by themselves, their agents or employees shall sell, offer for sale or expose for sale, or have in his or their possession for sale, any article intended for personal wear which was manufactured at a state penitentiary, state reform school or at any other institution supported at public expense and located without the boundaries of the state of California unless there is kept on exhibition in a conspicuous place, where said article is exposed or offered for sale, a notice at least twelve inches in length by six inches in height, stating that goods so manufactured are on sale there.

§ 3. **Penalty.** Whoever shall knowingly violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and

shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty dollars nor more than one hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding thirty days; and for each subsequent offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

§ 4. **Duty of district attorney.** It shall be the duty of the district attorney of each and every county in this state, upon application, to attend to the prosecution in the name of the people of any action brought for the violation of any of the provisions of this act within his district.

ACT 2103.

An act to perpetuate marks, brands and counterbrands established in the several counties of the state under sections three thousand one hundred sixty-eight and three thousand one hundred sixty-nine of the Political Code, to provide methods of perpetuation and declaring all marks, brands and counterbrands not so perpetuated to be inoperative and void.

[Approved April 16, 1917. Stats. 1917, p. 138. In effect July 27, 1917.]

§ 1. **Notice to perpetuate marks, brands, and counterbrands.** The county recorder of each county in whose office there are recorded more than one hundred marks, brands and counterbrands under the provisions of section three thousand one hundred sixty-eight of the Political Code, shall, within thirty days after this law goes into effect, cause to be published in a newspaper of general circulation in such county, the following notice:

"Every person, who, under and by virtue of compliance with section three thousand one hundred sixty-eight of the Political Code, owns a mark, brand or counterbrand, must, within three months after final publication of this notice, notify the county recorder of his desire to continue and perpetuate such mark, brand and counterbrand. This notification must be in words of positive and reasonable intendment and must be either by registered letter or by personal application addressed to said county recorder. Any person failing to so continue and perpetuate such mark, brand and counterbrand, shall lose all right, title and interest therein.

First publication: (naming date).

Last publication: (naming date).

____ ____,

County recorder of —— county."

§ 2. **Publication.** The notice set forth in section one shall be published six times at intervals of four weeks, final publication to be not more than five months later than the original publication thereof.

§ 3. **Continuance of marks, etc.** Every person desiring to continue and perpetuate any mark, brand and counterbrand must comply with the

provisions set forth in the notice under section one, and the county recorder shall, upon such compliance, write or stamp opposite the record of such mark, brand or counterbrand the word "perpetuated."

§ 4. **Marks, etc., deemed abandoned.** At the termination of three months after final publication of notice set forth in section one, the county recorders of the several counties shall transfer the records of all marks, brands and counterbrands perpetuated under section three to a new book set apart for the purpose described in section three thousand one hundred sixty-eight of the Political Code, and all marks, brands and counterbrands in the custody of the county recorders of the several counties not so continued and perpetuated shall be deemed to have been abandoned by the owner thereof and to be inoperative and void.

§ 5. **Sections of Political Code not affected by act.** Nothing in this act shall be construed as repealing sections three thousand one hundred sixty-eight and three thousand one hundred sixty-nine of the Political Code.

TITLE 331.

MASTER AND SERVANT.

ACT 2135.

An act prohibiting employers of labor from coercing employees in the purchase of things of value, and prescribing a penalty for the violation of the provisions hereof.

[Approved April 26, 1917. Stats. 1917, p. 207. In effect July 27, 1917.]

§ 1. **Unlawful to force employee to patronize employer.** It shall be unlawful for any employer of labor, or any officer, agent or employee of any employer of labor to make, adopt or enforce any rule or regulation compelling or coercing any employee to patronize said employer, or any other person, firm or corporation, in the purchase of any thing of value; provided, however, that nothing herein shall be interpreted as prohibiting any employer of labor from prescribing the weight, color, quality, texture, style, form and make of uniforms required to be worn by their employees.

§ 2. **Penalty.** Any person, whether as an individual, or as an agent or employee of a firm, or as an officer, agent or employee of a corporation, who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

ACT 2139b.

An act to provide for the furnishing by public utility corporations, to employees thereof leaving their service, of service letters.

[Approved June 1, 1917. Stats. 1917, p. 1520. In effect July 31, 1917.]

§ 1. **Service letters by public utility corporations.** Every public utility corporation shall, upon request therefor made to it by any em-

ployee thereof leaving its service, give to such employee a letter covering and stating the period during which such service was and kind of service rendered to such corporation by such employee.

§ 2. **Penalty.** Every public utility corporation violating the provisions of this act shall, for each offense, suffer a fine of not less than twenty-five dollars, nor more than one hundred dollars; which fine shall be collected by the district attorney of the county in which such corporation has its principal place of business.

ACT 2140c.

An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments, to demand or receive any fee, gift or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics. [Approved April 12, 1915. Stats. 1915, p. 61.]

Repealed 1917; Stats. 1917, p. 257.
See post, Act 2143d.

ACT 2140e.

An act to require employers to pay the cost of bonds and photographs required of and furnished by employees or applicants for employment.

[Approved April 20, 1917. Stats. 1917, p. 151. In effect July 27, 1917.]

§ 1. **Employer must pay for bond or photograph.** Whenever a bond or photograph of an employee or applicant for employment is required by any employer of labor, said employer shall pay the cost of such bond or photograph.

§ 2. **Penalty.** Any person violating any provision of this act shall be guilty of a misdemeanor, punishable by a fine not less than twenty-five dollars nor exceeding five hundred dollars.

§ 3. **Enforcement.** The commissioner of the bureau of labor statistics of the state of California shall enforce the provisions of this act.

ACT 2142a.

An act to provide for semi-monthly pay days of laborers in the employ of any county of the first or second class.

[Approved May 22, 1917. Stats. 1917, p. 800. In effect July 27, 1917.]

§ 1. **Semi-monthly pay days of county employees.** The wages of all employees of any county of the first or second class, whose compensation is based on a daily rate of payment, shall be paid at not less than two stated times in each calendar month, and at substantially equal intervals.

§ 2. **Penalty for violation.** Any officer, employer or agent of any county of the first or second class, or of any department or institution

thereof, who fails, refuses or neglects to comply with the requirements of this act, in so far as the payments are prescribed or controlled by him, is guilty of a misdemeanor.

ACT 2143c.

An act to promote the comfort, health, safety and general welfare of the people of this state as affected by injury causing the disability or death of employees in the course of their employment, providing for a complete plan of workmen's compensation by creating a liability on the part of immediate employers, principal employers, contracting employers and their insurance carriers to compensate employees and their dependants for such disability or death, irrespective of the fault of any party, providing the means and methods of enforcing such liability and providing for certain liens upon compensations; and regulating compensation insurance coverage against such liability, securing the payment of compensation and confirming the establishment and transactions of the state compensation insurance fund; and requiring safety in all employments and places of employment in this state and providing the means and methods of enforcing such safety; and requiring reports of industrial injuries; and providing penalties for offenses, as defined herein, by employers, their officers and agents, and by employees and other persons and corporations; and defining the powers and duties of the industrial accident commission under this act, and providing for a review of its orders, decisions and awards; and repealing sections two, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thiry-four, thirty-five, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-five *a*, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six and eighty-seven of chapter one hundred seventy-six, Statutes of 1913, and all other acts and parts of acts inconsistent herewith, except sections one, three, four, five, six, seven, eight, nine, ten, eleven, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, eighty-eight and ninety of said chapter one hundred seventy-six, Statutes of 1913.

[Approved May 23, 1917. Stats. 1917, p. 831. In effect January 1, 1918.]

§ 1. **Intention of act. Social public policy of state declared.** This act and each and every part thereof is an expression of the police power and is also intended to make effective and apply to a complete system of workmen's compensation the provisions of section seventeen and one-half of article twenty and section twenty-one of article twenty of the

constitution of the state of California. A complete system of workmen's compensation includes adequate provision for the comfort, health, saftey and general welfare of any and all employees and those dependent upon them for support to the extent of relieving from the consequences of any injury incurred by employees in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment, full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury, full provision for adequate insurance coverage against the liability to pay or furnish compensation, full provision for regulating such insurance coverage in all its aspects including the establishment and management of a state compensation insurance fund, full provision for otherwise securing the payment of compensation, and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any matter arising under this act to the end that the administration of this act shall accomplish substantial justice in all cases expeditiously, inexpensively and without encumbrance of any character; all of which matters contained in this section are expressly declared to be the social public policy of this state, binding upon all departments of the state government.

§ 2. **Title.** This act shall be known and may be cited as the "workmen's compensation, insurance and safety act of 1917" and shall apply to the subjects mentioned in its title.

§ 3. **Definitions.** The following terms as used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

(1) **"Commission."** The term "commission" means the industrial accident commission of the state of California as created under the provisions of chapter one hundred seventy-six of the laws of 1913.

(2) **"Commissioner."** The term "commissioner" means one of the members of the commission.

(3) **"Compensation."** The term "compensation" means compensation under this act and includes every benefit or payment conferred by sections six to thirty-one, inclusive, of this act upon an injured employee, or in the event of his death, upon his dependents, without regard to negligence.

(4) **"Injury."** The term "injury," as used in this act, shall include any injury or disease arising out of the employment. In case of aggravation of any disease existing prior to such injury, compensation shall be allowed only for such proportion of the disability due to the aggravation of such prior disease as may reasonably be attributed to the injury.

(5) **"Damages."** The term "damages" means the recovery allowed in an action at law as contrasted with compensation under this act.

(6) **"Person."** The term "person" includes an individual, firm, voluntary association, or a public, quasi-public or private corporation.

(7) **"Insurance carrier."** The term "insurance carrier" includes the state compensation insurance fund and any private company, corporation, mutual association, reciprocal or interinsurance exchange authorized under the laws of this state to insure employers against liability for compensation under this act.

(8) **Phrases defined.** The phrase "compensation provisions of this act" means and includes sections six to thirty-one, inclusive, of this act.

(9) **Phrases defined.** The phrase "safety provisions of this act" means and includes sections thirty-three to fifty-four, inclusive, of this act.

(10) **Singular and plural.** Whenever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

§ 4. **Assistant to attorney.** The commission shall have power and authority to appoint an assistant to its attorney, who shall be an attorney at law of this state, and who shall hold office at the pleasure of the commission. It shall be the right and duty of such assistant attorney to perform any of the duties of the attorney of the commission under the direction of the commission or its attorney.

§ 5. **Powers and duties.** Said commission is hereby vested with full power, authority and jurisdiction under the provisions of this act and charged with the duties defined by the provisions of this act in addition to all other power, authority, jurisdiction and duties conferred upon it and exercised by it as heretofore created, constituted and existing.

§ 6. **Employer's liability.** (a) Liability for the compensation provided by this act, in lieu of any other liability whatsoever to any person, shall, without regard to negligence, exist against an employer for any injury sustained by his employees arising out of and in the course of the employment for the death of any such employee if the injury shall proximately cause death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and employee are subject to the compensation provisions of this act.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his employment and is acting within the course of his employment.

(3) Where the injury is proximately caused by the employment, either with or without negligence, and is not caused by the intoxication of the injured employee, or is not intentionally self-inflicted.

(4) **Misconduct of injured employee.** Where the injury is caused by the serious and willful misconduct of the injured employee, the compensation otherwise recoverable by him shall be reduced one-half; provided, however, that such misconduct of the employee shall not be a defense to the claim of the dependents of said employee, if the injury results in death, or to the claim of the employee, if the injury results in a permanent partial disability equaling or in excess of seventy per cent of total; and provided, further, that such misconduct of said

employee shall not be a defense where his injury is caused by the failure of the employer to comply with any provision of law, or any safety order of the commission, with reference to the safety of places of employment.

(b) **Recovery of compensation.** Where such conditions of compensation exist, the right to recover such compensation, pursuant to the provisions of this act, shall be the exclusive remedy against the employer for the injury or death; provided, that where the employee is injured by reason of the serious and willful misconduct of the employer, or his managing representative, or if the employer be a partnership, on the part of one of the partners, or if a corporation, on the part of an executive or managing officer thereof, the amount of compensation otherwise recoverable for injury or death, as hereinafter provided, shall be increased one-half, any of the provisions of this act as to maximum payments or otherwise to the contrary notwithstanding; provided, however, that said increase of award shall in no event exceed twenty-five hundred dollars.

(c) In all other cases where the conditions of compensation do not concur, the liability of the employer shall be the same as if this act had not been passed.

§ 7. **"Employer."** The term "employer" as used in sections six to thirty-one, inclusive, of this act, shall be construed to mean: The state, and each county, city and county, city, school district and all public corporations and quasi-public corporations therein, and every person, firm, voluntary association, and private corporation, including any public service corporation, who has any person in service under any appointment or contract of hire, or apprenticeship, express or implied, oral or written, and the legal representative of any deceased employer.

§ 8. **"Employee."** (a) The term "employee" as used in section six to thirty-one, inclusive, of this act shall be construed to mean: Every person in the service of an employer as defined by section seven hereof under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also including minors, whether lawfully or unlawfully employed, and all elected and appointed paid public officers, and all officers and members of boards of directors of quasi-public or private corporations, while rendering actual service for such corporations for pay, but excluding any person whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and also excluding any employee engaged in household domestic service, farm, dairy, agricultural, viticultural or horticultural labor, in stock or poultry raising and any person holding an appointment as deputy clerk, deputy sheriff or deputy constable appointed for the convenience of such appointee, who receives no compensation from the county or municipal corporation or from the citizens thereof for services as such deputy; provided, that such last exclusion shall not deprive any person so deputized from recourse against any private person employing him for injury occurring in the course of and arising out of such employment.

(b) **"Independent contractor." Partner receiving wages.** Any person rendering service for another, other than as an independent contractor, or as expressly excluded herein, is presumed to be an employee within the meaning of this act. The term "independent contractor" shall be taken to mean, for the purposes of this act: Any person who renders service, other than manual labor, for a specified recompense for a specified result, under the control of his principal as to the result of his work only and not as to the means by which such result is accomplished. A working member of a partnership receiving wages irrespective of profits from such partnership shall be deemed an employee within the meaning of this section.

(c) **"Casual."** The term "casual" as used in this section shall be taken to refer only to employments where the work contemplated is to be completed in not exceeding ten working days, without regard to the number of men employed, and where the total labor cost of such work is less than one hundred dollars. The phrase "course of the trade, business, profession or occupation of his employer" shall be taken to include all services tending toward the preservation, maintenance or operation of the business, business premises or business property of the employer. The words "trade, business, profession or occupation of his employer" shall be taken to include any undertaking actually engaged in by him with some degree of regularity, the trade name, articles of incorporation or principal business of the employer to the contrary notwithstanding.

(d) **Watchmen.** Watchmen for nonindustrial establishments, paid by subscription by several persons, shall not be held to be employees within the meaning of this act. In other cases where watchmen, paid by subscription by several persons, have at the time of the injury sustained by them taken out and maintained in full force and effect insurance upon themselves as self-employing persons conferring benefits equal to those conferred by this act, the employer shall not be liable under this act.

(e) **Employees of state, etc.** It shall not be a defense to the state, or any political subdivision or institution thereof, or public or quasi-public corporation, that a person injured while rending service for it was not lawfully employed by reason of the violation of any civil service or other law, rule, or regulation respecting the hiring of employees.

(f) **Workmen under partnership agreement.** Workmen associating themselves under a partnership agreement, the principal purpose of which is the performance of the labor on a particular piece of work, shall be deemed employees of the person having such work executed, and, in the event the average weekly earnings are not otherwise ascertainable, shall be deemed to be employed at an average weekly wage of twelve dollars; provided, however, that if such workmen shall have taken out and maintained in full force and effect insurance, in an insurance carrier as defined in this act, insuring to themselves and all persons employed by them benefits identical with those conferred by this act, the person for whom such work is to be done shall not be liable as an employer under this act.

§ 9. Medical attention. Change of physicians. Employer maintaining hospital staff. Where liability for compensation under this act exists, such compensation shall be furnished or paid by the employer and be as provided in the following schedule:

(a) Such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, including artificial members, as may reasonably be required to cure and relieve from the effects of the injury, the same to be provided by the employer, and in case of his neglect or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same; provided, that if the employee so requests, the employer shall tender him one change of physicians and shall nominate at least three additional practicing physicians competent to treat the particular case, or as many as may be available if three cannot reasonably be named, from whom the employee may choose; the employee shall also be entitled, in any serious case, upon request, to the services of a consulting physician to be provided by the employer; all of said treatment to be at the expense of the employer. If the employee so requests, the employer must procure certification by the commission or a commissioner of the competency for the particular case of the consulting or additional physicians; provided, further, that the foregoing provisions regarding a change of physicians shall not apply to those cases where the employer maintains, for his own employees, a hospital and hospital staff, the adequacy and competency of which have been approved by the commission. Nothing contained in this section shall be construed to limit the right of the employee to provide, in any case, at his own expense, a consulting physician or any attending physicians whom he may desire. Controversies between employer and employee, arising under this section, shall be determined by the commission, upon the request of either party.

(b) **Time of disability payments.** If the injury causes temporary disability, a disability payment which shall be payable for one week in advance as wages on the eleventh day after the injured employee leaves work as a result of the injury. If the injury causes permanent disability, a disability payment which shall be payable for one week in advance as wages on the eleventh day after the injury. Such indemnity shall thereafter be payable on the employer's regular pay day, but not less frequent than twice in each calendar month, unless otherwise ordered by the commission, subject, however, to the following limitations:

(1) **Disability less than ten days.** If the period of disability does not last longer than ten days from the day the employee leaves work as the result of the injury, no disability payment whatever shall be recoverable.

(2) **No recovery for first ten days.** If the period of disability lasts longer than ten days from the day the employee leaves work as the result of the injury, no disability payment shall be recoverable for the first ten days of disability suffered.

2. **Amount of disability payment.** The disability payment shall be as follows:

(1) If the injury causes temporary total disability, sixty-five per cent of the average weekly earnings during the period of such disability, consideration being given to the ability of the injured employee to compete in an open labor market;

(2) If the injury causes temporary partial disability, sixty-five per cent of the weekly loss in wages during the period of such disability;

(3) If the temporary disability caused by the injury is at times total and at times partial the weekly disability payment during the period of each such total or partial disability shall be in accordance with paragraphs one and two of this subdivision respectively;

(4) **Aggregate disability payments.** Paragraphs one, two, and three of this subdivision shall be limited as follows: Aggregate disability payments for a single injury causing temporary disability shall not exceed three times the average annual earnings of the employee, nor shall the aggregate disability period for such temporary disability in any event extend beyond two hundred forty weeks from the date of the injury.

(5) **Computation of payments when disability permanent.** If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the disability payment computed and allowed as follows: For a one per cent disability sixty-five per cent of the average weekly earnings for a period of four weeks; for a ten per cent disability, sixty-five per cent of the average weekly earnings for a period of forty weeks; for a twenty per cent disability, sixty-five per cent of the average weekly earnings for a period of eighty weeks; for a thirty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred twenty weeks; for a forty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred sixty weeks; for a fifty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred weeks; for a sixty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks; for a seventy per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks, and thereafter ten per cent of such weekly earnings during the remainder of life; for an eighty per cent disabilty, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter twenty per cent of such weekly earnings during the remainder of life; for a ninety per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter thirty per cent of such weekly earnings during the remainder of life; for a hundred per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter forty per cent of such weekly earnings during the remainder of life.

(6) The payment for permanent disabilities intermediate to those fixed by the foregoing schedule shall be computed and allowed as follows: If under seventy per cent, sixty-five per cent of the average weekly earnings for four weeks for each one per cent of disability; if seventy

per cent or over, sixty-five per cent of the average weekly earnings for two hundred forty weeks and thereafter one per cent of such weekly earnings for each one per cent of disability in excess of sixty per cent to be paid during the remainder of life.

(7) In determining the percentages of permanent disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured employee, and his age at the time of such injury, consideration being given to the diminished ability of such injured employee to compete in an open labor market.

(8) **Only one payment. Where both temporary and permanent disability.** Where an injury causes both temporary and permanent disability, the injured employee shall not be entitled to both a temporary and permanent disability payment, but only to the greater of the two.

(9) **Permanent disabilities presumed to be total.** The following permanent disabilities shall be conclusively presumed to be total in character: Loss of both eyes or the sight thereof; loss of both hands or the use thereof; an injury resulting in a practically total paralysis; an injury to the brain resulting in incurable imbecility or insanity. In all other cases, permanent total disability shall be determined in accordance with the fact.

(10) **Percentage of permanent disability.** The percentage of permanent disability caused by any injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any injury previously suffered or any permanent disability caused thereby.

(11) **Schedule for determination of permanent disabilities.** The commission may prepare, adopt, and from time to time amend, a schedule for the determination of the percentages of permanent disabilities, such table to be based upon the proper combinations of the factors indicated in subdivision seven above. Such schedule shall be available for public inspection and without formal introduction in evidence shall be prima facie evidence of the percentage of permanent disability to be attributed to each injury covered by said schedule.

3. **Death of injured employee.** The death of an injured employee shall not affect the liabilty of the employer under subsections (a) and (b) of this section, so far as such liability has accrued and become payable at the date of the death, and any accrued and unpaid compensation shall be paid to the dependents, if any, or, if there are no dependents, to the personal representative of the deceased employee or heirs or other persons entitled thereto, without administration, but such death shall be deemed to be the termination of the disability.

(c) **Death benefits.** If the injury causes death, either with or without disability, the burial expense of the deceased employee as hereinafter limited and a death benefit which shall be payable in installments equal to sixty-five per cent of the average weekly earnings of the deceased employee, upon the employer's regular pay day, but not less frequently than twice in each calendar month, unless otherwise ordered by the commission, which death benefit shall be as follows:

(1) **If deceased employee leaves dependents.** In case the deceased employee leaves a person or persons wholly dependent upon him for support, such dependents shall be allowed the reasonable expense of his burial, not exceeding one hundred dollars, and a death benefit, which shall be a sum sufficient, when added to the disability indemnity which at the time of death has accrued and become payable, under the provisions of subsection (b) hereof, and the said burial expense, to make the total disability indemnity, cost of burial and death benefit equal to three times his average annual earnings, such average annual earnings to be taken at not less than three hundred thirty-three dollars and thirty-three cents nor more than one thousand six hundred sixty-six dollars and sixty-six cents.

(2) **If deceased employee leaves partially dependent.** In case the deceased employee leaves no person wholly dependent upon him for support, but one or more persons partially dependent therefor, the said dependents shall be allowed the reasonable expense of his burial, not to exceed one hundred dollars, and, in addition thereto, a death benefit which shall amount to three times the annual amount devoted by the deceased to the support of the person or persons so partially dependent; provided, that the death benefit shall not be greater than a sum sufficient, when added to the disability indemnity which, at the time of the death, has accrued and become payable under the provisions of subsection (b) hereof, together with the cost of the burial of such deceased employee, to make the total disability indemnity, cost of burial and death benefit equal to three times his average annual earnings, such average annual earnings to be taken at not less than three hundred thirty-three dollars and thirty-three cents nor more than one thousand six hundred sixty-six dollars and sixty-six cents.

(3) **If no dependents.** If the deceased employee leaves no person dependent upon him for support, the death benefit shall consist of the reasonable expense of his burial not exceeding one hundred dollars.

(d) **Payment discharges employer.** Payment of compensation in accordance with the order and direction of the commission shall discharge the employer from all claims therefor.

§ 10. Inspection of hospital facilities. Reports of receipts etc. Facilities declared inadequate. The commission shall have power to inspect and determine the adequacy of hospitals and hospital facilities supplied by employers or by mutual associations of employees, with or without the concurrence of the employer, for the treatment of injuries coming within the provisions of this act. No part of any contribution paid by employees or deducted from their wages for the maintenance of such hospital facilities shall be devoted to the payment of any portion of the cost of providing compensation prescribed by this act. Nothing contained in this section shall be taken to prevent any hospital association or medical department furnishing the treatment prescribed in this act free of charge to employees. Every such hospital shall make to the commission from time to time, upon demand, but not less frequently than once a year, reports of receipts, disbursements and services rendered to or for employees. If in the judgment of the commission the

services or equipment of any hospital are inadequate to meet the reasonable requirements of medical treatment contemplated in section 9 (a) of this act, the commission may, after notice and an opportunity to be heard, declare such facilities to be inadequate and thereafter injured employees of such employer may procure treatment elsewhere, and the reasonable cost thereof shall be a charge against such employer under said section 9 (a). Any finding of the commission after such notice, determining the fact of such inadequacy, shall be conclusive evidence in any proceeding for compensation of the fact of such inadequacy during the period covered by such finding. Such finding of inadequacy may be amended, modified or rescinded by the commission at any time upon good cause appearing therefor.

§ 11. Right to institute proceedings barred, when. (a) Unless compensation is paid or an agreement for its payment made within the time limited in this section for the institution of proceedings for its collection, the right to institute such proceedings shall be barred; provided, that the filing of an application with the commission for any portion of the benefits prescribed by this act shall render this section inoperative as to all further claims of any person or persons for compensation arising from the same transaction, and the right to present such further claims shall be governed by the provisions of section twenty (d) and section sixty-five (b) of this act.

(b) **Periods within which proceedings for collection may be commenced.** The periods within which proceedings for the collection of compensation may be commenced are as follows:

(1) Proceedings for the collection of the benefit provided by subsection (a) of section 9 or for the collection of the disability payment provided by subsection (b) of said section 9 must be commenced within six months from the date of the injury, except as otherwise provided in this act.

(2) Proceedings for the collection of the death benefit provided by subsection (c) of said section 9 must be commenced within one year from the date of death, and in any event within two hundred forty weeks from the date of the injury, and can only be maintained when it appears that death ensued within one year from the date of the injury, or that the injury causing death also caused disability which continued to the date of the death and for which a disability payment was made, or an agreement for its payment made, or proceedings for its collection commenced within the time limited for the commencement of proceedings for the recovery of the disability payment.

(c) The payment of compensation, or any part thereof, or agreement therefor, shall have the effect of extending the period within which proceedings for its collection may be commenced, six months from the date of the agreement or last payment of such compensation, or any part thereof, or the expiration of the period covered by any such payment; provided, however, that nothing contained in this section shall be construed to bar the right of any injured employee to institute proceedings for the collection of compensation within two hundred forty-five weeks after the date of the injury upon the grounds that the or-

iginal injury has caused new and further disability; and the jurisdiction of the commission, in such cases, shall be a continuing jurisdiction at all times within such period; provided, further, that the provisions of this section shall not apply to an employee who is totally disabled and bedridden as a result of his injury, during the continuance of such condition or until the expiration of six months thereafter.

(d) **Guardian for minor or incompetent.** If an injured employee, or in the case of his death, one or more of his dependents, shall be under twenty-one years of age or incompetent at any time when any right or privilege accrues to such person under the provisions of this act, a general guardian, appointed by the court, or a guardian ad litem or trustee appointed by the commission or a commissioner may, on behalf of any such person, claim and exercise any such right or privilege with the same force and effect as if no such disability existed; and no limitation of time provided by this act shall run against any such person under twenty-one years of age or incompetent unless and until such guardian or trustee is appointed. The commission shall have power to determine the fact of the minority or incompetency of any injured employee and may appoint a trustee to receive and disburse compensation payments for the benefit of such minor or incompetent and his family.

(e) **Refusal to submit to medical treatment.** No compensation shall be payable in case of the death or disability of an employee if his death is caused, or if and so far as his disabilty is caused, continued, or aggravated, by an unreasonable refusal to submit to medical treatment, or to any surgical treatment, the risk of which is, in the opinion of the commission, based upon expert medical or surgical advice, inconsiderable in view of the seriousness of the injury.

(f) **Previous disability does not affect later disability.** The fact that an employee has suffered a previous disability, or receives compensation therefor, shall not preclude him from compensation for a later injury, or his dependents from compensation for death resulting therefrom, but in determining compensation for the later injury, or death resulting therefrom, his average annual earnings shall be fixed at such sum as will reasonably represent his annual earning capacity at the time of the later injury.

(g) **Payments not due employee.** Any payment, allowance or benefit received by the injured employee during the period of his incapacity, or by his dependents in the event of his death, which by the terms of this act was not then due and payable or when there is any dispute or question concerning the right to compensation, shall not, in the absence of any agreement, be construed to be an admission of liability for compensation on the part of the employer, or the acceptance thereof as a waiver of any right or claim which the employee or his dependents may have against the employer, but any such payment, allowance or benefit may be taken into account by the commission in fixing the amount of the compensation to be paid.

(h) **Affirmative defense.** The running of the period of limitations prescribed by this section is an affirmative defense and operates to bar the remedy and not to extinguish the right of the employee. It may be

waived, and failure to present such defense prior to the submission of the cause for decision shall be a sufficient waiver.

§ 12. **Average annual earnings.** (a) The average annual earnings referred to in section 9 hereof shall be fifty-two times the average weekly earnings referred to in said section; in computing such earnings the average weekly earnings shall be taken at not less than six dollars and forty-one cents nor more than thirty-two dollars and five cents, and three times the average annual earnings shall be taken at not less than one thousand dollars nor more than five thousand dollars, and between said limits said average weekly earnings shall be arrived at as follows:

(1) **Average weekly earnings.** If the injured employee has worked in the same employment, whether for the same employer or not, during at least two hundred sixty days of the year preceding his injury, his average weekly earnings shall consist of ninety-five per cent of six times the daily earnings at the time of such injury where the employment is for six full working days a week. Where his employment is for five, five and one-half, six and one-half or seven working days a week, the average weekly earnings shall be ninety-five per cent of five, five and one-half, six and one-half or seven times the daily earnings at the time of the injury, as the case may be.

(2) If the injured employee has not so worked in such employment during at least two hundred sixty days of such preceding year, his average weekly earnings shall be based upon the daily earnings, wage or salary of an employee of the same class working at least two hundred sixty days of such preceding year in the same or a similar kind of employment in the same or a neighboring place, computed in accordance with the provisions of the preceding subdivision.

(3) **If earnings be irregular.** If the earnings be irregular or specified to be by the week, month, or other period, then the average weekly earnings mentioned in subdivisions (1) and (2) above shall be ninety-five per cent of the average earnings during such period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay.

(4) **When less than five days or seasonal.** Where the employment is for less than five days per week or is seasonal or where for any reason the foregoing methods of arriving at the average weekly earnings of the injured employee can not reasonably and fairly be applied, such average weekly earnings shall be taken at ninety-five per cent of such sum as shall reasonably represent the average weekly earning capacity of the injured employee at the time of his injury, due consideration being given to his actual earnings from all sources and employments during the year preceding his injury; provided, that the earnings from other occupations shall not be allowed in excess of the rate of wages paid at the time of the injury.

(b) **Overtime, board, etc.** In determining such average weekly earnings, there shall be included overtime and the market value of board, lodging, fuel, and other advantages received by the injured employee, as part of his remuneration, which can be estimated in money, but

such average weekly earnings shall not include any sum which the employer may pay to the injured employee to cover any special expenses entailed on him by the nature of his employment.

(c) **If injured employee is under twenty-one.** If the injured employee is under twenty-one years of age, and his incapacity is permanent, his average weekly earnings shall be deemed, within the limits fixed, to be the weekly sum that under ordinary circumstances he would probably be able to earn after attaining the age of twenty-one years, in the occupation in which he was employed at the time of the injury or in any occupation to which he would reasonably have been promoted if he had not been injured, and if such probable earnings after attaining the age of twenty-one years can not reasonably be determined, such average weekly earnings shall be based upon three dollars a day for a six-day week.

§ 13. **Weekly loss in wages in case of temporary partial disability.** The weekly loss in wages in case of temporary partial disability shall consist of the difference betweeen the average weekly earnings of the injured employee, computed according to the provisions of section nine, and the weekly amount which the injured employee will probably be able to earn during the disability, to be determined in view of the nature and extent of the injury. In computing such probable earnings due regard shall be given to the ability of the injured employee to compete in an open labor market. If evidence of exact loss of earnings be lacking, such weekly loss in wages may be computed from the proportionate loss of physical ability or earning power caused by the injury.

§ 14. **Who are deemed wholly dependent.** (a) The following shall be exclusively presumed to be wholly dependent for support upon a deceased employee:

(1) A wife upon a husband with whom she was living at the time of his death, or for whose support such husband was legally liable at the time of his death.

(2) A child or children under the age of eighteen years, or over said age, but physically and mentally incapacitated from earning, upon the parent with whom he or they are living at the time of the death of such parent or for whose maintenance such parent was legally liable at the time of death, there being no surviving dependent parent.

(b) In all other cases, questions of entire or partial dependency and questions as to who constitute dependents and the extent of their dependency shall be determined in accordance with the fact, as the fact may be at the time of the injury of the employee.

(c) No person shall be considered a dependent of any deceased employee unless in good faith a member of the family or household of such employee, or unless such person bears to such employee the relation of husband or wife, child, posthumous child, adopted child or stepchild, father or mother, father-in-law or mother-in-law, grandfather or grandmother, brother or sister, uncle or aunt, brother-in-law or sister-in-law, nephew or niece.

(d) **Distribution of death benefit if one or more persons wholly dependent.** 1. If there is one or more persons wholly dependent for sup-

port upon a deceased employee, such person or persons shall receive the entire death benefit, and any person or persons partially dependent shall receive no part thereof.

2. If there is more than one such person wholly dependent for support upon a deceased employee, the death benefit shall be divided qually among them.

3. If there is more than one person partially dependent for support upon a deceased employee, and no person wholly dependent for support, the amount allowed as a death benefit shall be divided among the persons so partially dependent in proportion to the relative extent of their dependency.

(e) **Commission may reassign death benefit. Death of dependent.** The commission may, anything in this act contained to the contrary notwithstanding, set apart or reassign the death benefit to any one or more of the dependents in accordance with their respective needs and as may be just and equitable, and may order payment to a dependent subsequent in right, or not otherwise entitled, upon good cause being shown therefor. Such death benefit shall be paid to such one or more of the dependents of the deceased or to a trustee appointed by the commission or a commissioner for the benefit of the person or persons entitled, as may be determined by the commission. The person to whom the death benefit is paid for the use of the several beneficiaries shall apply the same in compliance with the findings and directions of the commission. In the event of the death of a dependent beneficiary of any deceased employee, if there be no surviving dependent, the death of such dependent shall terminate the death benefit, which shall not survive to the estate of such deceased dependent, except that payments of such death benefit accrued and payable at the time of the death of such sole remaining dependent shall be paid upon the order of the commission to the heirs of such dependent or, if none, to the heirs of the deceased employee, without administration.

§ 15. Notice to employer. No claim to recover compensation under this act shall be maintained unless within thirty days after the occurrence of the injury which is claimed to have caused the disability or death, notice in writing stating the name and the address of the person injured, the time and the place where the injury occurred, and the nature of the injury, and signed by the person injured or someone in his behalf, or in case of his death, by a dependent or someone in his behalf, shall be served upon the employer; provided, however, that knowledge of such injury, obtained from any source, on the part of such employer, his managing agent, superintendent, foreman, or other person in authority, or knowledge of the assertion of a claim of injury sufficient to afford opportunity to the employer to make an investigation into the facts, shall be equivalent to such service; and provided further, that the failure to give any such notice, or any defect or inaccuracy therein, shall not be a bar to recovery under this act if it is found as a fact in the proceedings for the collection of the claim that there was no intention to mislead or prejudice the employer in making his defense, and that he was not in fact so misled or prejudiced thereby.

§ 16. **Medical examination of employee.** (a) Whenever the right to compensation under this act would exist in favor of any employee, he shall, upon the written request of his employer, submit from time to time, as may be reasonable, to examination by a practicing physician, who shall be provided and paid for by the employer, and shall likewise submit to examination from time to time by any physician selected by the commission or any member or referee thereof.

(b) **If employee refuses to submit to examination.** The request or order for such examination shall fix a time and place therefor, due consideration being given to the convenience of the employee and his physical condition and ability to attend at the time and place fixed. The employee shall be entitled to have a physician provided and paid for by himself present at any examination required by his employer. So long as the employee, after such written request of the employer, shall fail or refuse to submit to such examination or shall in any way obstruct the same, his right to begin or maintain any proceeding for the collection of compensation shall be suspended; and if he shall fail or refuse to submit to examination after direction by the commission, or any member or referee thereof, or shall in any way obstruct the same, his right to the disability payments which shall accrue during the period of such failure, refusal or obstruction, shall be barred. Any physician who shall make or be present at any such examination may be required to report or testify as to the results thereof.

§ 17. **Hearing on disputes. Service of notice.** (a) Upon the filing with the commission by any party in interest of an application in writing stating the general nature of any dispute or controversy concerning compensation, or concerning any right or liability arising out of or incidental thereto, jurisdiction over which is vested by this act in the commission, a time and place shall be fixed for the hearing thereof, which hearing, unless otherwise agreed to by all the parties thereto, must be held not less than ten days nor more than thirty days after the filing of such application. The person filing such application shall be known as the applicant and the adverse party shall be known as the defendant. A copy of said application, together with a notice of the time and place of hearing thereof, shall forthwith be served upon all adverse parties and may be served either as a summons in a civil action or in the same manner as any other notice that is authorized or required to be served under the provisions of this act. A notice of the time and place of hearing shall also be served upon the applicant.

(b) **Jurisdiction of commission.** The jurisdiction of the commission shall include any controversy relating to or arising out of the provisions of subsection (a) of section nine of this act, unless an express agreement shall have been made between the persons or institutions rendering such treatment and the employer or insurance carrier fixing the amount to be paid for the services.

(c) **But one cause of action.** There shall be but one cause of action for each transaction coming within the provisions of this act, and all claims brought for medical expense, disability payments, death benefits, burial expense, liens or any other matter arising out of such transaction

may, in the discretion of the commission, be joined in the same proceeding at any time.

(d) **Death of employer.** The death of an employer subsequent to the sustaining of an injury by an employee shall not impair the right of such employee to proceed before the commission against the estate of such employer, and the failure of such employee or his dependents to cause the claim to be presented to the executor or administrator of the estate shall not in any way bar or suspend such right.

§ 18. Defendant's answer. (a) If any defendant desires to disclaim any interest in the subject matter of the claim in controversy, or considers that the application is in any respect inaccurate or incomplete, or desires to bring any fact, paper or document to the attention of the commission as a defense to the claim, or otherwise, he may, within five days after the service of the application upon him, file with or mail to the commission his answer setting forth the particulars in which the application is inaccurate or incomplete, and the facts upon which he intends to rely. A copy of such answer must be forthwith served upon all adverse parties. Evidence upon matters not pleaded by answer shall be allowed only upon such terms and conditions as may be imposed by the commission or commissioner or referee holding the hearing.

(b) **Application for relief.** If the defendant fails to appear or answer, no default shall be taken against him, but the commission shall proceed to the hearing of the matter upon such terms and conditions as it may deem proper. Such defendant failing to appear or answer, or subsequently contending that no service was made upon him, or claiming to be aggrieved in any other manner by want of notice of the pendency of the proceedings, may apply to the commission for relief substantially in accordance with the provisions of section four hundred seventy-three of the Code of Civil Procedure, and the commission is hereby authorized to afford such relief. No right to relief, including the claim that the findings and award of the commission or judgment entered thereon are void upon their face, shall accrue to such defendant in any court unless prior application shall have been made to the commission in accordance with this subsection, and in no event shall any application to any court be allowed except as prescribed in sections sixty-seven and sixty-eight of this act.

(c) **Dismissal of application.** If upon the filing of an application, such application shows upon its face that the applicant is not entitled to compensation, the commission may, upon its own motion or upon the motion of the adverse party, and after opportunity to the applicant to be heard orally or in writing, and upon good cause appearing therefor, dismiss the application prior to any hearing thereon. The pendency of such motion or notice of intended dismissal shall not, unless otherwise ordered by the commission, delay the hearing upon the application upon its merits.

(d) **Attachment of defendant's property.** Upon the filing of an application by or on behalf of an injured employee or his dependents or any other party in interest, the commission may, in its discretion, in the cases mentioned in section four hundred twelve of the Code of

Civil Procedure, direct the county clerk of any county or city and county to issue writs of attachment authorizing the sheriff to attach the property of the defendant in an amount not to exceed the greatest probable award against him in such matter, to be fixed by the commission, as security for the payment of any compensation which may thereafter be awarded. The provisions of part two, title seven, chapter four, of the Code of Civil Procedure of this state, as far as applicable to proceedings before the commission, shall govern the proceedings upon attachment, and the commission shall be substituted for the superior court in said provisions for the purpose of this act. No writ of attachment shall be issued except upon the order of the commission or a commissioner, and such order shall not be made where it appears from the application or affidavit in support thereof that the employer was, at the time of the injury to the employee, insured against liability imposed by this act in any insurance carrier licensed to do business in the state of California. If it should at any time after the levying of an attachment be made to appear that such employer was so insured, and the requisites for dismissing said employer from the proceeding and substituting the insurance carrier as defendant under any of the methods prescribed under section thirty (e) of this act be established, the commission must forthwith discharge the attachment. In levying such attachment, preference must be given to the real property of the employer.

§ 19. **Pleadings. Hearing. Testimony.** (a) No pleadings, other than the application and answer, shall be required. The hearing on the application may be adjourned from time to time and from place to place in the discretion of the commission or commissioner or referee holding such hearing. Either party shall have the right to be present at any hearing, in person or by attorney or by any other agent, and to present such testimony as shall be pertinent under the pleadings, but the commission may, with or without notice to either party, cause testimony to be taken, or inspection of the premises where the injury occurred to be made, or the time-books and pay-roll of the employer to be examined by any commissioner or referee appointed by the commission, and may from time to time direct any employee claiming compensation to be examined by a regular physician; the testimony so taken and the results of any such inspection or examination to be reported to the commission for its consideration.

(b) **Stipulation of facts.** The parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the commission. The commission may thereupon make its findings and award based upon such stipulation, or may in its discretion set the matter down for hearing and take such further testimony or make such further investigations as may be necessary to enable it to completely determine the matter in controversy.

(c) **Evidence.** The commission may receive as evidence, either at or subsequent to a hearing, and use as proof of any fact in dispute, the following matters, in addition to sworn testimony presented in open hearing:

(1) Reports of attending or examining physicians.

(2) Reports of special investigators appointed by the commission or a commissioner or referee to investigate and report upon any scientific or medical question.

(3) Reports or employers, containing copies of time sheets, book accounts, reports and other records, properly authenticated.

(4) Properly authenticated copies of hospital records of the case of the injured employee.

(5) All publications of the commission.

(6) All official publications of state and United States governments.

(7) Excerpts from expert testimony received by the commission upon similar issues of scientific fact in other cases and the prior decisions of the commission upon such issues; provided, however, that transcripts of all testimony taken without notice and copies of all reports and other matters added to the record, otherwise than during the course of an open hearing, be served upon the parties to the proceeding, and opportunity be given to produce testimony in explanation or rebuttal before decision is rendered.

(d) **Affirmative defenses.** The burden of proof lies upon the party holding the affirmative of the issue. The following are affirmative defenses, and the burden of proof shall rest upon the employer to establish them:

(1) That an injured person claiming to be an employee is an independent contractor or otherwise excluded from the protection of this act, where there is proof that such injured person was at the time of his injury actually performing service for the alleged employer.

(2) Intoxication of an employee causing his injury.

(3) Willful misconduct of an employee causing his injury.

(4) Aggravation of disability by unreasonable conduct of the employee.

(5) Prejudice to the employer by failure of the employee to give notice, as required by section fifteen.

(e) **Autopsy.** Where it is represented to the commission, either before or after the filing of an application, that an employee has died as a result of injuries sustained in the course of his employment, the commission may require an autopsy, and the report of the physician performing such autopsy may be received in evidence in any proceedings theretofore or thereafter brought. If at the time such autopsy is requested the body of such employee be in the custody of the coroner, the coroner must, upon the request of the commission or of any party interested, afford reasonable opportunity for the attendance of any physicians named by the commission at any autopsy ordered by him. If the coroner should not require, or shall have already performed such autopsy, he shall permit an autopsy or re-examination to be performed by physicians named by the commission. No fee shall be charged by the coroner for any service, arrangement or permission given by him.

If the body is not in the custody of the coroner, the commission shall have authority to authorize the performance of such autopsy and the exhumation of the body for such purpose if necessary. If the dependents, or a majority thereof, of any such deceased employee, having the custody of the body of such deceased employee, shall refuse to allow the performance of such autopsy, such autopsy shall not be held; but

upon the hearing of any application for compensation it shall be a disputable presumption that the injury or death was not due to causes entitling the claimants to benefits under this act.

§ 20. **Findings and award.** (a) After final hearing by the commission, it shall, within thirty days, make and file (1) its findings upon all facts involved in the controversy, and (2) its award which shall state its determination as to the rights of the parties.

(b) The commission in its award may fix and determine the total amount of compensation to be paid and specify the manner of payment, or may fix and determine the weekly disability payment to be made and order payment thereof during the continuance of such disability.

(c) If, in any proceeding under sections six to thirty-one, inclusive, of this act, it is proved that an injury has been suffered for which the employer would be liable to pay compensation if disability had resulted therefrom, but it is not proved that any incapacity had resulted, the commission may, instead of dismissing the application, award a nominal disability indemnity, if it appears that disability is likely to result at a future time.

(d) **Amending orders, etc.** The commission shall have continuing jurisdiction over all its orders, decisions and awards made and entered under the provisions of sections six to thirty-one, inclusive, of this act and may at any time, upon notice, and after opportunity to be heard is given to the parties in interest, rescind, alter or amend any such order, decision or award made by it upon good cause appearing therefor, such power including the right to review, grant or regrant, diminish, increase or terminate, within the limits prescribed by this act, any compensation awarded, upon the grounds that the disability of the person in whose favor such award was made has either recurred, increased, diminished or terminated; provided, that no award of compensation shall be rescinded, altered or amended after two hundred forty-five weeks from the date of the injury. Any order, decision or award rescinding, altering or amending a prior order, decision or award shall have the same effect as is herein provided for original orders, decisions or awards.

§ 21. **Findings filed in superior court.** (a) Any party affected thereby may file a certified copy of the findings and award of the commission with the clerk of the superior court of any county, or city and county, and judgment must be entered by the clerk in conformity therewith immediately upon the filing of such findings and award.

(b) **Judgment-roll.** The certified copy of the findings and award of the commission and a copy of the judgment shall constitute the judgment-roll. The pleadings, all orders of the commission, its original findings and award, and all other papers and documents filed in the cause shall remain on file in the office of the commission.

(c) **Stay of execution.** The commission, or any member thereof, may stay the execution of any judgment entered upon an award of the commission, upon good cause appearing therefor and upon such terms and conditions as may be imposed. A certified copy of such order shall be filed with the clerk entering judgment. Where it is deemed desir-

able to stay the enforcement of an award and a certified copy of said findings and award has not been issued by the commission, the commission, or any member thereof, may order such certified copy to be withheld with the same force and under the same conditions as it might issue a stay of execution if said certified copy had been issued and judgment entered thereon.

(d) **Entry of satisfaction.** When a judgment is satisfied in fact, otherwise than upon an execution, the commission may, upon motion of either party or of its own motion, order the entry of satisfaction of the judgment to be made, and upon filing a certified copy of such order with the said clerk, he shall thereupon enter such satisfaction and not otherwise.

§ 22. **Review of findings, etc.** The orders, findings, decisions or awards of the commission made and entered under sections six to thirty-one, inclusive, of this act may be reviewed by the courts specified in sections sixty-seven and sixty-eight hereof and within the time and in the manner therein specified and not otherwise.

§ 23. **Fees. Costs.** No fees shall be charged by the clerk of any court for the performance of any official service required by this act, except for the docketing of awards as judgments and for certified copies of transcripts thereof. In all proceedings under this act before the commission, costs as between the parties shall be allowed or not in the discretion of the commission and the commission may, in its discretion, where payments of compensation have been unreasonably delayed, allow the beneficiary thereof interest thereon, at not to exceed one and one-half per cent per month, during such period of delay.

§ 24. **Claim not assignable.** (a) No claim for compensation shall be assignable before payment, but this provision shall not affect the survival thereof, nor shall any claim for compensation, or compensation awarded, adjudged or paid, be subject to be taken for the debts of the party entitled to such compensation, except as hereinafter provided. No compensation, whether awarded or voluntarily paid, shall be paid to any attorney at law or in fact or other agent, but shall be paid directly to the claimant entitled to the same, unless otherwise ordered by the commission. Any payment made to such attorney at law or in fact or other agent in violation of the provisions of this section shall not be credited to the employer.

(b) **Lien against amount due as compensation.** The commission may fix and determine and allow as a lien against any amount to be paid as compensation:

(1) A reasonable attorney's fee for legal services pertaining to any claim for compensation or application filed therefor and the reasonable disbursements in connection therewith.

(2) The reasonable expense incurred by or on behalf of the injured employee, as defined in subsection (a) of section nine hereof.

(3) The reasonable value of the living expenses of an injured employee, not exceeding sixty-five per cent of his weekly wages between the date of his injury and the payment of the disability payment or death benefit;

provided, that no such allowance shall be made while an injured employee is confined to a hospital for treatment.

(4) The reasonable burial expenses of the deceased employee, not to exceed the sum of one hundred dollars.

(5) The reasonable living expenses of the wife or minor children of the injured employee, or both, subsequent to the date of the injury, where such employee has deserted or is neglecting his family, to be allowed in such proportion as the commission shall deem proper, upon application of the wife or guardian of the minor children.

(c) **Notice of claim. Award by commission.** If notice in writing be given to the employer setting forth the nature and extent of any claim that may be allowed as a lien, the said claim shall be a lien against any amount thereafter to be paid as compensation, subject to the determination of the amount and approval thereof by the commission. The commission may, in its discretion, order the amount of such claim as fixed and allowed by it paid directly to the person entitled, either in a lump sum or in installments. Where it appears in any proceeding pending before the commission that a lien should be allowed if the same had been duly requested by the party entitled thereto, the commission may, in its discretion, and without any request for such lien having been made, order the payment of such claim to be made directly to the person entitled, in the same manner and with the same effect as though such lien had been regularly requested, and the award to such person shall constitute a lien against unpaid compensation due at the time of service of said award.

(d) **Excessive claim for legal services.** No claim or agreement for the legal services or disbursements mentioned in paragraph (1) of subsection (b) hereof, or for the expense mentioned in paragraph (2) of said subsection (b), in excess of a reasonable amount, shall be valid or binding in any respect, and it shall be competent for the commission to determine what constitutes such reasonable amount.

(e) **Preference of claim for compensation.** A claim for compensation for the injury or death of any employee, or any award or judgment thereon, shall have the same preference over the other unsecured debts of the employer or insurance carrier as is given by law to claims for wages. Such preference shall be for the entire amount of compensation to be paid, but this section shall not impair the lien of any previous award.

§ 25. **Liability of principal employers and contractors.** The liability of principal employers and contracting employers, general or intermediate, for compensation under this act, when other than the immediate employer of the injured employee, shall be as follows:

(a) When any such employer undertakes to do, or contracts with another to do, or to have done, any work, either directly or through contractors or subcontractors, then such principal employer or contracting employer shall be liable to pay to any employee injured while engaged in the execution of such work, or to his dependents in the event of his death, or to any other person, any compensation which the immediate

employer is liable to pay, and the commission shall have jurisdiction to determine all controversies arising under this section.

(b) The person entitled to such compensation shall have the right to recover the same directly from his immediate employer, and in addition thereto the right to enforce in his own name, in the manner provided by this act, the liability for compensation imposed upon other persons by this section, either by making such other persons parties to the original application or by filing a separate application; provided, however, that payment in whole or in part of such compensation by either the immediate employer or other person shall, to the extent of such payment, be a bar to recovery against the other.

(c) When any person, other than the immediate employer, shall have paid any compensation for which he would not have been liable independently of this section, he shall, unless he caused the injury, be entitled to recover the full amount so paid from the person primarily liable therefor, and jurisdiction to determine his claim shall be vested in the commission; provided, that such right of reimbursement against the person primarily liable for compensation shall not exist in favor of any insurance carrier insuring such other persons upon whom liability is imposed by this section, in any case where the immediate employer shall have joined with any of such other persons in taking out such policy of insurance or shall have contributed to the payment of the premium for such insurance, with the intent of securing joint protection thereby, anything in the policy to the contrary notwithstanding.

(d) **Limitations on liability.** The liability imposed by this section shall be subject to the followng limitations:

(1) Such liability shall exist only in cases where the injury occurred on or in or about the premises on which the principle employer or contracting employer, whether general or intermediate, has undertaken to execute or to have executed any work, or when such premises or work are otherwise under his control or management.

(2) Such liability shall not exist in the event that the immediate employer, or other person primarily liable for the compensation shall, previous to the suffering of such injury, have taken out, and maintained in full force and effect, compensation insurance with any insurance carrier, covering his full liability for compensation.

(3) The commission may, in its discretion, order that execution against such principal employer or contracting employer be stayed until execution against the immediate employer shall be returned unsatisfied.

(e) The findings and award of this commission entered against the immediate employer shall be conclusive for or against all persons upon whom liability is imposed by this section as to the fact and extent of liability of such immediate employer.

§ 26. **When person other than employer liable for damages. Employer and employee as parties plaintiff. If employee or employer prosecutes alone.** When any injury for which compensation is payable under the provisions of this act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employee may claim com-

pensation under the provisions of this act, but the payment or award of compensation shall not affect the claim or right of action of such injured employee against such other person, but such injured employee may proceed at law against such person to recover damages; and any employer having paid, or having become obligated to pay, compensation may bring an action against such other person to recover damages, and evidence of any amount he has paid or become obligated to pay, as compensation, shall not be admissible; provided, that if either such employee or such employer shall bring such action against such third person, he shall forthwith notify the other in writing, by personal presentation or by registered mail, of such fact and of the name of the court in which suit is brought, filing proof thereof in such action, and such other may join as a party plaintiff in such action within thirty days after such notification, or must consolidate his action, if brought independently, and if such other party fails to join or proceed as party plaintiff, his right of action against such third person shall be barred. In the event that such employer and employee shall join as parties plaintiff in such action and damages are recovered, such damages shall be so apportioned that the claim of the employer shall take precedence over that of the injured employee, and if the damages shall not be sufficient or shall be only sufficient to reimburse the employer for the compensation which he has paid, or has become obligated to pay, with a reasonable allowance for an attorney's fee, to be fixed by the court, and his costs, such damages shall be assessed in his favor; but if the damages shall be more than sufficient to reimburse him, the damages shall be assessed in his favor sufficient to so reimburse him, and the excess shall be assessed in favor of the injured employee. In case such employee shall prosecute such suit to judgment without the union of the employer by joinder or consolidation, the employer shall have a first lien upon any damages secured by the employee by such proceeding for the compensation the employer has paid, or has become obligated to pay, and may, by motion in open court, secure the allowance of said lien at any time before satisfaction of the judgment; and if such suit shall be prosecuted to judgment by the employer alone, such employer shall hold the damages recovered by him, over and above the compensation which he has paid, or has become obligated to pay, with a reasonable allowance for an attorney's fee, to be fixed by the court, and his costs, for the benefit of the injured employee or other person entitled, and the injured employee, shall, in addition to other remedies provided by law, be entitled, by motion in open court, to have such excess awarded to him in the judgment entered by the court, at any time prior to satisfaction thereof.

§ 27. **Right to compromise.** (a) No contract, rule or regulation shall exempt the employer from liability for the compensation fixed by this act, but nothing in this act contained shall be construed as impairing the right of the parties interested to compromise, subject to the provisions herein contained, any liability which may be claimed to exist under this act on account of such injury or death, or as conferring upon the dependents of any injured employee any interest which such employee may not divert by such compromise or for which he, or his

estate, shall, in the event of such compromise by him, be accountable to such dependents or any of them.

(b) **Valid release or compromise agreement.** The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment when subject to the provisions of this act, and no release of liability or compromise agreement shall be valid unless it provide for the payment of full compensation in accordance with the provisions of this act or unless it shall be approved by the commission.

(c) **Award based on release or compromise agreement.** A copy of such release or compromise agreement signed by both parties shall forthwith be filed with the commission. When such release or compromise agreement is filed with the commission and approved by it, the commission may of its own motion, or on the application of either party, without notice, enter its award based upon such release or compromise agreement.

(d) **Contents of release or compromise agreement.** Every such release or compromise agreement shall be in writing, duly executed and attested by two disinterested witnesses, and shall specify the date of the accident, the average weekly wages of the employee, determined according to section twelve hereof, the nature of the disability, whether total or partial, permanent or temporary, the amount paid or due and unpaid to the employee up to the date of the release or agreement or death, as the case may be, and, if any, the amount of the payment or benefits then or thereafter to be made, and the length of time that such payment is to continue. In case of death there shall also be stated in such release or compromise agreement the date of death, the name of the widow, if any, the names and ages of all children, if any, and the names of all other dependents, if any, and whether such dependents be total or partial, and the amount paid or to be paid as a death benefit and to whom such payment is to be made.

§ 28. **Compensation payable in lump sum.** (a) At the time of making its award, or at any time thereafter, the commission on its own motion, either with or without notice, or upon application of either party with due notice to the other, may, in its discretion, commute the compensation payable under this act to a lump sum, if it appears that such commutation is necessary for the protection of the person entitled thereto, or for the best interest of either party, or that it will avoid undue expense or hardship to either party, or that the employer has sold or otherwise disposed of the greater part of his assets, or is about to do so, or that the employer is not a resident of this state, and the commission may order such compensation paid forthwith or at some future time.

(b) **Determination of amount of commuted payment.** The amount of the commuted payment shall be determined in accordance with the following provisions:

(1) If the injury causes temporary disability, the commission shall estimate the probable duration thereof and the probable amount of the temporary disability payments therefor, in accordance with the provisions of section nine hereof, and shall fix the lump sum payment at such amount so determined.

(2) If the injury causes permanent disability or death, the commission shall fix the total amount of the permanent disability payment or death benefit payable therefor in accordance with the provisions of said section nine, and shall estimate the present value thereof, assuming interest at the rate of six per cent per annum, disregarding the probability of the beneficiary's death in all cases except where the percentage of permanent disability is such as to entitle the beneficiary to a life pension, and then taking into consideration the probability of the beneficiary's death only in estimating the present value of such life pension.

(c) **Manner of making lump sum payment.** The commission in its discretion may order the lump sum payment, determined as hereinbefore provided, paid directly to the injured employee or his dependents, or deposited with any savings bank or trust company authorized to transact business in this state, that will agree to accept the same as a deposit bearing interest, or the commission may order the same deposited with the state compensation insurance fund. Any such amount so deposited, together with all interest derived therefrom, shall thereafter be held in trust for the injured employee, or in the event of his death, for his dependents, and the latter shall have no further recourse against the employer. Payments from said fund, when so deposited, shall be made by the trustee only in the same amounts and at the same time as fixed by order of the commission and until said fund and interest thereon shall be exhausted. In the appointment of the trustee preference shall be given, in the discretion of the commission, to the choice of the injured employee or his dependents. Upon the making of such payment, the employer shall present to the commission a proper receipt evidencing the same, executed either by the injured employee or his dependents, or by the trustee, and the commission shall thereupon issue its certificate in proper form evidencing the same, and such certificate, upon filing with the clerk of the superior court in which any judgment upon an award may have been entered, shall operate as a satisfaction of said award and shall fully discharge the employer from any further liability on account thereof.

(d) **Payments from state compensation insurance fund.** The commission may, where the employer is uninsured and the payments of compensation awarded are to be paid for a considerable time in the future, determine the present worth of said future payments, discounted at the rate of three per cent per annum, and order the said present worth paid into the state compensation insurance fund, which fund shall thereafter pay to the beneficiaries of said award the future payments as they become due.

§ 29. **Ways for securing payment of compensation.** (a) Every employer as defined in section seven hereof, except the state and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

1. By insuring and keeping insured against liability to pay compensation in one or more insurance carriers duly authorized to write compensation insurance in this state.

2. By securing from the commission a certificate of consent to self-insure, which may be given upon his furnishing proof satisfactory to

the commission of ability to carry his own insurance and pay any compensation that may become due to his employees. The commission may, in its discretion, require such employer to deposit with the state treasurer a bond or securities approved by the commission, in an amount to be determined by the commission. Such certificate may be revoked at any time for good cause shown.

(b) **Action against employer. Right to attach property.** If any employer shall fail to secure the payment of compensation, any injured employee or his dependents may proceed against such employer by filing an application for compensation with the commission, and, in addition thereto, such injured employee or his dependents may bring an action at law against such employer for damages, the same as if this act did not apply, and shall be entitled in such action to the right to attach the property of the employer, at any time upon or after the institution of such action, in an amount to be fixed by the court, to secure the payment of any judgment which may ultimately be obtained. Such judgment shall include a reasonable attorney's fee to be fixed by the court. The provisions of the Code of Civil Procedure, except in so far as they may be inconsistent with this act, shall govern the issuance of and proceedings upon such attachment; provided, that if as a result of such action for damages a judgment is obtained against such employer in excess of the compensation awarded under this act, the compensation awarded by the commission, if paid, or if security approved by the court be given for its payment, shall be credited upon such judgment; provided, further, that in such action it shall be presumed that the injury to the employee was a direct result and grew out of the negligence of the employer, and the burden of proof shall rest upon the employer to rebut the presumption of negligence. In such proceeding it shall not be a defense to the employer that the employee may have been guilty of contributory negligence, or assumed the risk of the hazard complained of, or that the injury was caused by the negligence of a fellow-servant. No contract, rule or regulation shall be allowed to restore to the employer any of the foregoing defenses.

§ 30. **Right of employer to insure in mutual companies, etc.** (a) Nothing in this act shall affect the organization of any mutual or other insurance company, or any existing contract for insurance, or the right of the employer to insure in mutual or other companies, in whole or in part, against liability for the compensation provided by this act; or to provide by mutual or other insurance, or by arrangement with his employees, or otherwise, for the payment to such employees, their families, dependents or representatives, of sick, accident or death benefits, in addition to the compensation provided for by this act; or the right of the employer to waive the waiting period provided for herein by insurance coverage; provided, however, that it shall be unlawful for any employer to exact or receive from any employee any contribution, or make or take any deduction from the earnings of any employee, either directly or indirectly, to cover the whole or any part of the cost of compensation under this act, and it shall be a misdemeanor so to do.

(b) **Liability not reduced by insurance, etc.** Liability for compensation shall not be reduced or affected by any insurance, contribution, or

other benefit whatsoever due to or received by the person entitled to such compensation, except as otherwise provided by this act, and the person so entitled shall, irrespective of any insurance or other contract, except as otherwise provided in this act, have the right to recover such compensation directly from the employer, and in addition thereto, the right to enforce in his own name, in the manner provided in this act, either by making the insurance carrier a party to the original application or by filing a separate application, the liability of any insurance carrier, which may, in whole or in part, have insured against liability for such compensation; provided, however, that payment in whole or in part of such compensation by either the employer or the insurance company shall, to the extent thereof, be a bar to recovery against the other of the amount so paid; and provided, further, that as between the employer and the insurance company, payment by either directly to the employee, or to the person entitled to compensation, shall be subject to the conditions of the insurance contract between them.

(c) **Insurance carrier directly liable to employee.** Every contract insuring against liability for compensation, or insurance policy evidencing the same, must contain a clause to the effect that the insurance carrier shall be directly and primarily liable to the employee and, in the event of his death, to his dependents, to pay the compensation, if any, for which the employer is liable; that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this act, be jurisdiction of the insurance carrier; and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer under the provisions of this act.

(d) **Lien of employee on amount owing on policy.** Such policy must also provide that the employee shall have a first lien upon any amount which shall become owing on account of such policy to the employer from the insurance carrier, and that in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the employee or his dependents, the said insurance carrier may and shall pay the same directly to the said employee or his dependents, thereby discharging, to the extent of such payment, the obligations of the employer to the employee; and such policy shall not contain any provisions relieving the insurance carrier from payment when the employer becomes insolvent or is discharged in bankruptcy, or otherwise, during the period that the policy is in operation or the compensation remains owing. Every contract insuring against liability for compensation, provided by this act, or insurance policy evidencing the same shall be conclusively presumed to contain all of the provisions required by this act.

(e) **Employer relieved from liability by insurance carrier.** (1) If the employer shall be insured against liability for compensation with any insurance carrier, and if after the suffering of any injury such insurance carrier shall serve or cause to be served upon any person claiming compensation against such employer a notice that it has assumed and agreed to pay the compensation, if any, for which the employer is liable, and

shall file a copy of such notice with the commission, such employer shall thereupon be relieved from liabilty for compensation to such claimant and the insurance carrier shall, without notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceedings shall not abate on account of such substitution but shall be continued against such insurance carrier. If at the time of the suffering of an injury for which compensation is claimed, or may be claimed, the employer shall be insured against liability for the full amount of compensation payable, or that may become payable, the employer may serve or cause to be served upon any person claiming compensation on account of the suffering of such injury and upon the insurance carrier a notice that the insurance carrier has in its policy contract or otherwise, assumed and agreed to pay the compensation, if any, for which the employer is liable, and may file a copy of such notice with the commission. If it shall thereafter appear to the satisfaction of the commission that the insurance carrier has, through the issuance of its contract of insurance or otherwise, assumed such liability for compensation, such employer shall thereupon be relieved from liability for compensation to such claimant and the insurance carrier shall, after notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceding shall not abate on account of such substitution, but shall be continued against such insurance carrier.

(2) **Order of commission.** The commission may, with or without the filing of the notice required by the preceding paragraph, enter its order relieving the employer from liability where it appears from the pleadings, stipulations or proof that an insurance carrier joined as party to the proceeding is liable for the full compensation which the employer in such proceeding is liable to pay.

(f) **Insurance carrier subrogated to rights of employer.** Where any employer is insured against liability for compensation with any insurance carrier and such insurance carrier shall have assumed the liability of the employer therefor in the manner provided by this section, or shall have paid any compensation for which the employer is liable, or furnished or provided any medical services required by this act, such insurance carrier shall be subrogated to all the rights and duties of such employer and may enforce any such rights of its own name.

(g) **State fund may insure.** The state compensation insurance fund may insure against any liability fixed under this act to the same extent as any insurance carrier.

§ 31. **"Limited compensation policy."** (a) If any insurance policy shall be issued covering liability for compensation, which policy shall contain any limitation as to the compensation payable, such limitation shall be printed in the body of such policy in bold-face type and in addition thereto the words "limited compensation policy" shall be printed on the top of the policy in bold-face type not less than eighteen point in size. Failure to observe the foregoing requirement shall render such policy unlimited.

(b) No insurance carrier shall insure against the liability of the employer for the additional compensation recoverable under the provisions contained in section 6 (b) hereof.

§ 32. **Organization of state compensation insurance fund.** Nothing contained in this act shall be taken or construed to limit, interfere with, disturb, or render ineffective in any degree, the creation, existence, organization, control, management, contracts, rights, powers, duties and liabilities of the state compensation insurance fund, but all such matters and things are hereby expressly confirmed, saved and continued.

§ 33. **Constructions of terms used in act.** The following terms, as used in sections thirty-three to fifty-four, inclusive, of this act, shall, unless a different meaning is plainly required by the context, be construed as follows:

(1) **"Place of employment."** The phrase "place of employment" shall mean and include every place, whether indoors or out or underground, or elsewhere, and the premises appurtenant thereto, where, either temporarily or permanently, any industry, trade, work or business is carried on or where any process of operation directly or indirectly related to any industry, trade, work or business, is carried on, including all construction work, and where any person is directly or indirectly employed by another for direct or indirect gain or profit, but shall not include any place where persons are employed solely in household domestic service, or any place of employment, concerning the safety of which jurisdiction may have been vested by law heretofore or hereafter in any other commission or public authority.

(2) **"Employment."** The term "employment" shall mean and include any trade, work, business, occupation or process of manufacture, or any method of carrying on such trade, work, business, occupation or process of manufacture, including construction work, in which any person may be engaged, except where persons are employed solely in household domestic service.

(3) **"Employer."** The term "employer" shall mean and include every person, firm, voluntary association, corporation, officer, agent, manager, representative or other person having control or custody of any employment, place of employment or of any employee.

(4) **"Employee."** The term "employee" shall mean and include every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go to work or be at any time in any place of employment.

(5) **"Order."** The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the commission or any other determination arrived at or decision made by such commission under the safety provisions of this act.

(6) **"General order."** The term "general order" shall mean and include such order, made under the safety provisions of this act, as applies generally throughout the state to all persons, employments or places of employment, or all persons, employments or places of employ-

ment of a class under the jurisdiction of the commission. All other orders of the commission shall be considered special orders.

(7) **"Local order."** The term "local order" shall mean and include any ordinance, order, rule or determination of any board of supervisors, city council, board of trustees or other governing body of any county, city and county, city, or any school district or other public corporation, or an order or direction of any other public official or board or department upon any matter over which the industrial accident commission has jurisdiction.

(8) **"Safe" and "safety."** The terms "safe" and "safety" as applied to an employment or a place of employment shall mean such freedom from danger to the life or safety of employees as the nature of the employment will reasonably permit.

(9) **"Safety device" and "safeguard."** The terms "safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger.

§ 34. Employer to make employment safe. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish a place of employment which shall be safe for employees therein, and shall furnish and use such safety devices and safeguards, and shall adopt and use such practices, means, methods, operations and processes as are reasonably adequate to render such employment and place of employment safe, and shall do every other thing reasonably necessary to protect the life and safety of such employees.

§ 35. Use of safety devices. No employer shall require, permit or suffer any employee to go or be in any employment or place of employment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life and safety of such employees, and no such employer shall occupy or maintain any place of employment that is not safe.

§ 36. Construction of unsafe place. No employer, owner or lessee of any real property in this state shall construct or cause to be constructed any place of employment that is not safe.

§ 37. Employee not to interfere with safety devices. No employee shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place or employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment, or place of employment, or fail or neglect to do every other thing reasonably necessary to protect the life and safety of such employees.

§ 38. Jurisdiction of commission over places of employment. The commission is vested with full power and jurisdiction over, and shall

have such supervision of, every employment and place of employment in this state as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment and place of employment to be safe, and requiring the protection of the life and safety of every employee in such employment or place of employment.

§ 39. **Power of commission to prescribe devices, standards, etc.** The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise:

(1) To declare and prescribe what safety devices, safeguards or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law or lawful order.

(2) To fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life and safety of employees in employments and places of employment.

(3) To fix and order such reasonable standards for the construction, repair and maintenance of places of employment as shall render them safe.

(4) To require the performance of any other act which the protection of the life and safety of the employees in employments and places of employment may reasonably demand.

(5) To declare and prescribe the general form of industrial injury reports, the injuries to be reported and the information to be furnished in connection therewith, and the time within which such reports shall be filed. Nothing in this act contained shall be construed to prevent the commission from requiring supplemental injury reports.

§ 40. **Notice of hearing to consider general safety order.** Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and issuing a general safety order or orders as authorized by section thirty-nine hereof, the commission shall cause a notice of such hearing to be published in one or more daily newspapers of general circulation published and circulated in the city and county of San Francisco, and also in one or more daily newspapers of general circulation published and circulated in the county of Los Angeles, such newspapers to be designated by the commission for that purpose. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any general order issued by the commission after hearing had.

§ 41. **Order to make employment safe.** Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any employment or place of employment is not safe or that the practices or means or methods or operations or processes employed or used in connection therewith are unsafe, or do not afford adequate protection to the life and safety of employees in such employment or place of employment, the commission shall make and enter and serve such

order relative thereto as may be necessary to render such employment or place of employment safe and protect the life and safety of employees in such employment and place of employment and may in said order direct that such additions, repairs, improvements or change be made and such safety devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or place of employment safe, in the manner and within the time specified in said order.

§ 42. **Time for compliance with order.** The commission may, upon application of any employer, or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order, and any person affected by such order may petition the commission for an extension of time, which the commission shall grant if it finds such an extension of time necessary.

§ 43. **Investigation of unsafe employment.** Whenever the commission shall learn or have reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee it may, of its own motion, or upon complaint, summarily investigate the same, with or without notice or hearings, and after a hearing upon such notice as it may prescribe, the commission may enter and serve such order as may be necessary relative thereto, anything in this act to the contrary notwithstanding.

§ 44. **Obeying order.** Every employer, employee and other person shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in connection with the matters herein specified, or in any way relating to or affecting safety of employments or places of employment, or to protect the life and safety of employees in such employments or places of employment, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation.

§ 45. **Review of orders.** The orders of the commission, general or special, its rules or regulations, findings and decisions, made and entered under the safety provisions of this act, may be reviewed by the courts specified in sections sixty-seven and sixty-eight of this act and within the time and in the manner therein specified and not otherwise.

§ 46. **Powers of supervisors, etc., not affected.** Nothing contained in this act shall be construed to deprive the board of supervisors of any county, or city and county, the board of trustees of any city, or any other public corporation or board or department, of any power or jurisdiction over or relative to any place of employment; provided, that whenever the commission shall, by order, fix a standard of safety for employments or places of employment, such order shall, upon the filing by the commission of a copy thereof with the clerk of the county, city and county, or city to which it may apply, establish a minimum requirement concerning the matters covered by such order and shall be construed in connection with any local order relative to the same matter and to amend or modify any requirement in such local order not up to the standard of the order of the commission.

§ 47. The commission shall have further power and authority:

(1) **Museums of safety and hygiene.** To establish and maintain museums of safety and hygiene in which shall be exhibited safety devices, safeguards and other means and methods for the protection of the life and safety of employees, and to publish and distribute bulletins on any phase of this general subject.

(2) **Lectures.** To cause lectures to be delivered, illustrated by stereopticon or other views, diagrams or pictures, for the information of employers and their employees and the general public in regard to the causes and prevention of industrial accidents, occupational diseases and related subjects.

(3) **Advisers.** To appoint advisers who shall, without compensation, assist the commission in establishing standards of safety and the commission may adopt and incorporate in its general orders such safety recommendations as it may receive from such advisers.

§ 48. **Order admissible as evidence.** Every order of the commission, general or special, its rules and regulations, findings and decisions, made and entered under the safety provisions of this act shall be admissible as evidence in any prosecution for the violation of any of the said provisions and shall, in every such prosecution, be conclusively presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety, unless, prior to the institution of the prosecution for such violation or violations, proceedings for a rehearing thereon or a review thereof shall have been instituted as provided in sections sixty-four to sixty-eight, inclusive, of this act and not then finally determined.

§ 49. **Penalty for violation.** Every employer, employee or other person who, either individually or acting as an officer, agent or employee of a corporation or other person, violates any safety provision contained in sections thirty-four, thirty-five, thirty-six or thirty-seven of this act, or any part of any such provision, or who shall fail or refuse to comply with any such provision or any part thereof, or who, directly or indirectly, knowingly induces another so to do is guilty of a misdemeanor. In any prosecution under this section it shall be deemed prima facie evidence of a violation of any such safety provision, that the accused has failed or refused to comply with any order, rule, regulation or requirement of the commission relative thereto, and the burden of proof shall thereupon rest upon the accused to show that he has complied with such safety provision.

§ 50. **Separate and distinct offense.** Every violation of the provisions contained in sections thirty-four, thirty-five, thirty-six or thirty-seven of this act, or any part or portion thereof, by any person or corporation is a separate and distinct offense, and, in the case of a continuing violation thereof, each day's continuance thereof shall constitute a separate and distinct offense.

§ 51. **Accident prevention fund. Percentage of amount of gross premiums. Estimates submitted to board of control. Revolving fund.** All fines imposed and collected under prosecutions for violations of the

provisions of sections thirty to fifty-four of this act shall be paid into the state treasury to the credit of the "accident prevention fund," which fund is hereby created. In addition to other sources of income of said accident prevention fund, the state compensation insurance fund shall pay into the said accident prevention fund, on or before the first Monday in July, 1918, and annually thereafter, the sum of two per cent upon the amount of the gross premiums received by it upon its business done in this state during the preceding calendar year, less return premiums and reinsurance in companies or associations authorized to do business in this state, which payment is intended to be the equivalent of the taxes imposed upon private insurance companies by the laws of this state relating to revenue and taxation. The state compensation insurance fund shall also pay into the said accident prevention fund interest from September 1, 1917, at the rate of four per cent per annum, payable quarterly, upon the sum of one hundred thousand dollars heretofore advanced by the state to said state compensation insurance fund as long as the said fund shall retain the said sum of one hundred thousand dollars. The commission is authorized to draw from said accident prevention fund toward the support of its department of safety. The commission shall submit from time to time to the state board of control an estimate of the amount it desires to withdraw from the accident prevention fund, and when such estimate shall be approved by the state board of control, the controller is directed to draw his warrant on said fund in favor of said commission for such amount, and the treasurer is authorized and directed to pay the same. The commission shall account to the state board of control and to the state controller for all moneys so received, furnishing proper vouchers therefor. The said accident prevention fund shall be a revolving fund.

§ 52. **Unlawful to divulge confidential information.** It shall be unlawful for any member of the commission, or for any officer or employee of the commission, to divulge to any person not connected with the administration of this act any confidential information obtained from any person, concerning the failure of any other person to keep any place of employment safe, or concerning the violation of any order, rule or regulation issued by the commission. Any member of the commission or any officer or employee of the commission divulging such confidential information shall be guilty of a misdemeanor.

§ 53. **Report of injuries.** (a) Every employer of labor, without any exceptions, and every insurance carrier, and every physician or surgeon who attends any injured employee, is hereby required to file with the commission, under such rules and regulations as the commission may from time to time make, a full and complete report of every injury to an employee, arising out of or in the course of his employment and resulting in loss of life or injury to such person. Such reports shall be furnished to the commission in such form and such detail as the commission shall from time to time prescribe, and shall make specific answers to all questions required by the commission under its rules and regulations. It shall be unlawful for any person, firm, corporation, agent or officer of a firm or corporation, to fail or refuse to comply with any of the provisions of this section, and any such person, firm,

corporation, agent or officer of a firm or corporation, who fails or refuses to comply with the provisions of this section shall be guilty of a misdemeanor for each and every offense and upon conviction thereof shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars. Any such employer or insurance carrier who shall furnish such report shall be exempt from furnishing any similar report or reports authorized or required under the laws of this state.

(b) **Filling out blanks.** Every employer or insurance carrier receiving from the commission any blanks with directions to fill out the same shall cause the same to be properly filled out so as to answer fully and correctly each question propounded therein; in case he is unable to answer any such questions a good and sufficient reason shall be given for such failure.

(c) **Information not open to public inspection.** No information furnished to the commission by an employer or an insurance carrier shall be open to public inspection or made public except on order of the commission, or by a commissioner or referee in the course of a proceeding. Any officer or employee of the commission who, in violation of the provisions of this subsection, divulges any such information shall be guilty of a misdemeanor.

§ 54. **Investigation of injuries.** (a) The commission shall investigate the cause of all industrial injuries occurring within the state in any employment or place of employment, or directly or indirectly arising from or connected with the maintenance or operation of such employment or place of employment, resulting in disability or death and requiring, in the judgment of the commission, such investigation; and the commission shall have the power to make such orders or recommendations with respect to such injuries as may be just and reasonable; provided, that neither the order nor the recommendation of the commission shall be admitted as evidence in any action for damages or any proceeding to recover compensation, based on or arising out of such injury or death.

(b) **Inspectors, etc., may enter place of employment.** For the purpose of making any investigation which the commission is authorized to make under the provisions of this section, or for the purpose of collecting statistics or examining the provision made for the safety of employees, any member of the commission, inspector, referee or other person designated by the commission for that purpose, may enter any place of employment.

(c) **Penalty for violation.** Any employer, insurance carrier, responsible agent of employee of such employer or insurance carrier, or any other person who shall violate or omit to comply with any of the provisions of this section, or who shall in any way obstruct or hamper the commission, any commissioner or other person conducting any investigation authorized to be undertaken or made by the commission, shall be guilty of a misdemeanor.

§ 55. **Proceedings instituted before commission.** (a) All proceedings for the recovery of compensation, or concerning any right or liability

arising out of or incidental thereto, or for the enforcement against the employer or an insurance carrier of any liability for compensation imposed upon him by this act in favor of the injured employee, his dependents or any third person, or for the determination of any question as to the distribution of compensation among dependents of other persons, or for the determination of any question as to who are dependents of any deceased employee, or what persons are entitled to any benefit under the compensation provisions of this act, or for obtaining any order which by this act the commission is authorized to make, or for the determination of any other matter, jurisdiction over which is vested by this act in the commission, shall be instituted before the commission, and not elsewhere, except as otherwise in this act provided, and the commission is hereby vested with full power, authority and jurisdiction to try and finally determine all such matters, subject only to the review by the courts in this act specified and in the manner and within the time in this act provided.

(b) **Orders, etc., prima facie lawful.** All orders, rules and regulations, findings, decisions and awards of the commission shall be in force and shall be prima facie lawful; and all such orders, rules and regulations, findings, decisions and awards shall be conclusively presumed to be reasonable and lawful, until and unless they are modified or set aside by the commission or upon a review by the courts in this act specified and within the time and in the manner herein specified.

§ 56. **Service of notice, etc.** (a) Any notice, order or decision required by this act to be served upon any person or party either before, during or after the institution of any proceeding before the commission, may be served in the manner provided by chapter five, title fourteen of part two of the Code of Civil Procedure of this state, unless otherwise directed by the commission or a member thereof, in which event the same shall be served in accordance with the order or direction of said commission or member thereof. The commission or commissioner may also, in the cases mentioned in the Code of Civil Procedure of this state, order service to be made by publication of the notice of time and place of hearing. Where service is ordered to be made by publication the date of the hearing may be fixed at more than thirty days from the date of filing the application.

(b) Any such notice, order or decision affecting the state or any city and county, city, school district or public corporation therein, shall be served upon the same officer, officers, person or persons, upon whom the service of similar notices, orders or decisions is authorized by law.

(c) **Secretary, etc., have powers of peace officers.** The secretary, assistant secretaries and the inspectors appointed by the commission shall have all the powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other process in this state.

§ 57. **Powers of commission.** (a) The commission shall have full power and authority:

(1) **Rules of practice.** To adopt reasonable and proper rules of practice and procedure,

(2) **Representation of minors, etc.** To regulate and provide the manner, and by whom, minors and incompetent persons shall appear and be represented before it.

(3) **Appoint trustee to appear for minor or incompetent.** To appoint a trustee or guardian ad litem to appear for and represent any such minor or incompetent upon such terms and conditions as it may deem proper; and such guardian or trustee must, if required by the commission or a commissioner, give a bond in the same form and of the same character required by law from a guardian appointed by the courts and in such an amount as the commission or a commissioner may fix and determine, such bond to be approved by the commission or a commissioner, and such guardian or trustee shall not be discharged from liability until he shall have filed an account with the commission or with the probate court and such account shall have been approved. The trustee or guardian shall be entitled to receive such compensation for his services as shall be fixed and allowed by the commission or by the probate court.

(4) **Joinder of interested persons.** To provide for the joinder in the same proceeding of all persons interested therein, whether as employer, insurance carrier, employee, dependent, creditor or otherwise.

(5) **Notices.** To regulate and prescribe the kind and character of notices, where not otherwise prescribed by this act, and the service thereof.

(6) **Proofs.** To regulate and prescribe the nature and extent of the proofs and evidence.

(b) **Controversies over insurance policies. Acting as arbitrator.** The commission shall also have jurisdiction to determine controversies arising out of insurance policies issued to self-employing persons, conferring benefits identical with those prescribed by this act.

The commission may try and determine matters referred to it by the parties under the provisions of part three, title ten, of the Code of Civil Procedure, with respect to controversies arising out of insurance issued to self-employing persons under the provisions of this act. Such controversies may be submitted to it by the signed agreement of the parties, or by the application of one party and the submission of the other to its jurisdiction, with or without an express request for arbitration. The state compensation insurance fund must submit to the commission, the consent of the other party being obtained, all controversies susceptible of being arbitrated under this section. In acting as arbitrator under the provisions of this section, the commission shall have all the powers which it may lawfully exercise in compensation cases, and its findings and award upon such arbitration shall have the same conclusiveness and be subject to the same mode of reopening, review and enforcement as in compensation cases. No fee or cost shall be charged by the commission to any party for arbitrating the issues presented under this section.

§ 58. **Controversies over injuries outside of state.** The commission shall have jurisdiction over all controversies arising out of injuries suf-

fered without the territorial limits of this state in those cases where the injured employee is a resident of this state at the time of the injury and the contract of hire was made in this state, and any such employee or his dependents shall be entitled to the compensation or death benefits provided by this act.

§ 59. **Reference of cases.** The commission may upon the agreement of the parties, upon the application of either, or of its own motion, and either with or without notice, direct and order a reference in the following cases:

(1) To try any or all of the issues in any proceeding before it, whether of fact or of law, and to report a finding, order, decision or award to be based thereon.

(2) To ascertain a fact necessary to enable the commission to determine any proceeding before it or to make any order, decision or award that the commission is authorized to make under this act, or that is necessary for the information of the commission.

(b) **Referees.** The commission may appoint one or more referees in any proceeding, as it may deem necessary or advisable, and may refer matters arising out of the same proceeding to different referees. It may also, in its discretion, appoint general referees who shall hold office during the pleasure of the commission. Any referee appointed by the commission shall have such powers, jurisdiction and authority as is granted under the law, by the order of appointment and by the rules of the commission, and shall receive such salary or compensation for his services as may be fixed by the commission.

(c) **Objection to appointments.** Any party to the proceeding may object to the appointment of any person as referee upon any one or more of the grounds specified in section six hundred forty-one of the Code of Civil Procedure and such objection must be heard and disposed of by the commission. Affidavits may be read and witnesses examined as to such objections.

(d) **Oath of referee.** Before entering upon his duties, the referee must be sworn before an officer authorized to administer oaths, faithfully and fairly to hear and determine the matters and issues referred to him, and to make just findings and report according to his understanding.

(e) **Report of referee.** The referee must report his findings in writing to the commission within fifteen days after the testimony is closed. Such report shall be made in the form prescribed by the commission and shall include all matters required to be included in the order of reference or by the rules of the commission. The facts found and conclusions of law must be separately stated.

(f) **Order, etc., based on report of referee.** Upon the filing of the report of the referee, the commission may confirm, adopt, modify or set aside the same or any part thereof and may, either with or without further proceedings, and either with or without notice, enter its order, findings, decision or award based in whole or in part upon the report of the referee, or upon the record in the case.

(g) **Hearings by referees.** The provisions of the preceding subdivisions of this section shall not be construed to prevent the commission from requiring its referees merely to hold hearings and to make return of the testimony to the commission.

§ 60. Commission not bound by statutory rules of evidence and procedure. (a) All hearings and investigations before the commission or any member thereof, or any referee appointed thereby, shall be governed by this act and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission nor any member thereof, nor any referee appointed thereby, shall be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in such manner, through oral testimony and written and printed records, as is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this act. No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, rule or regulation made, approved or confirmed by the commission; nor shall any order, award, rule or regulation be invalidated because of the admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the said common law or statutory rules of evidence and procedure.

(b) **Depositions.** The commission, or a commissioner or referee, or any party to the action or proceedings, may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state, and to that end may compel the attendance of witnesses and the production of books, documents, papers and accounts; provided, that depositions taken outside of the state may be taken before any officers authorized to administer oaths.

§ 61. Power of commission to administer oaths, etc. Witness fees and mileage. The commission and each member thereof, its secretary, assistant secretaries and referees, shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. Each witness who shall appear, by order of the commission or a member thereof, or a referee appointed thereby, shall be entitled to receive, if demanded, for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed, unless otherwise ordered by the commission. When any witness who has not been required to attend at the request of any party is subpoenaed by the commission, his fees and mileage may be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's

attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission, member thereof, or referee as directed in the subpoena. All fees and mileage to which any witness is entitled, under the provisions of this section, may be collected by action therefor instituted by the person to whom such fees are payable.

§ 62. **Power of superior court to compel attendance of witnesses, etc.** The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held by the commission or any member thereof or referee appointed thereby, shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents, as required by any subpoena issued by the commission or member thereof or referee. The commission or any member thereof or the referee, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been subpoenaed in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission. The court, upon the petition of the commission or such member thereof or referee, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the commission, member thereof or referee. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or member thereof or referee and that the witness was legally bound to comply therewith, the court shall thereupon enter an order that said witness appear before the commission or member thereof or referee at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this section is cumulative, and shall not be construed to impair or interfere with the power of the commission or a member thereof to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as courts of record.

§ 63. **General power of commission.** (a) The commission is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred upon it under this act.

(b) **Power to issue writs, etc.** The commission and each member thereof shall have power to issue writs or summons, warrants of attachment, warrants of commitment and all necessary process in proceedings for contempt, in like manner and to the same extent as courts of record. The process issued by the commission or any member thereof shall extend to all parts of the state and may be served by any persons authorized to serve process of courts of record, or by any person designated for that purpose by the commission or any member thereof. The person executing any such process shall receive such compensation as may be allowed by the commission, not to exceed the fees now prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for the fees of witnesses.

§ 64. **Application for rehearing.** (a) Any party or person aggrieved directly or indirectly by any final order, decision, award, rule or regulation of the commission, made or entered under any provision contained in this act, may apply to the commission for a rehearing in respect to any matters determined or covered by such final order, decision, award, rule or regulation and specified in the application for rehearing within the time and in the manner hereinafter specified, and not otherwise.

(b) **No cause for action unless application for rehearing.** No cause of action arising out of any such final order, decision or award shall accrue in any court to any person until and unless such person shall have made application for such rehearing, and such application shall have been granted or denied; provided, that nothing herein contained shall be construed to prevent the enforcement of any such final order, decision, award, rule or regulation in the manner provided in this act.

(c) **Grounds for application.** Such application shall set forth specifically and in full detail the grounds upon which the applicant considers said final order, decision, award, rule or regulation is unjust or unlawful, and every issue to be considered by the commission. Such application must be verified upon oath in the same manner as required for verified pleadings in courts of record and must contain a general statement of any evidence or other matters upon which the applicant relies in support thereof. The applicant for such hearing shall be deemed to have finally waived all objections, irregularities and illegalities concerning the matter upon which such rehearing is sought other than those set forth in the application for such rehearing.

(d) **Service upon adverse parties.** A copy of such application for rehearing shall be served forthwith upon all adverse parties by the party applying for such rehearing, and any such adverse party may file an answer thereto within ten days thereafter. Such answer must likewise be verified. The commission may require the application for rehearing to be served on such other persons or parties as may be designated by it.

(e) **Rehearing.** Upon filing of an application for a rehearing, if the issues raised thereby have theretofore been adequately considered by the commission, it may determine the same by confirming without hearing its previous determination, or if a rehearing is necessary to determine the issues raised, or any one or more of such issues, the commission shall

order a rehearing thereon and consider and determine the matter or matters raised by such application. If at the time of granting such rehearing it shall appear to the satisfaction of the commission that no sufficient reason exists for taking further testimony, the commission may reconsider and redetermine the original cause without setting a time and place for such further rehearing. Notice of the time and place of such hearing, if any, shall be given to the applicant and adverse parties, and to such other persons as the commission may order.

(f) **Changing order, etc. Action within thirty days.** If after such rehearing and a consideration of all the facts, including those arising since the making of the order, decision or award involved, the commission shall be of the opinion that the original order, decision or award, or any part thereof, is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same. An order, decision or award made after such rehearing, abrogating, changing or modifying the original order, decision or award, shall have the same force and effect as an original order, decision or award, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order, decision or award, unless so ordered by the commission. An application for a rehearing shall be deemed to have been denied by the commission unless it shall have been acted upon within thirty days from the date of filing; provided, however, that the commission may, upon good cause being shown therefor, extend the time within which it may act upon such application for not exceeding thirty days.

§ 65. **Grounds for rehearing of order awarding compensation.** (a) At any time within twenty days after the service of any final order or decision of the commission awarding or denying compensation, or arising out of or incidental thereto, any party or parties aggrieved thereby may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

(1) That the commission acted without or in excess of its powers.

(2) That the order, decision or award was procured by fraud.

(3) That the evidence does not justify the findings of fact.

(4) That the applicant has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.

(5) That the findings of fact do not support the order, decision or award.

(b) Nothing contained in this section shall, however, be construed to limit the grant of continuing jurisdiction contained in subsection (a) of section twenty of this act.

§ 66. **Grounds for rehearing of order not pertaining to compensation.** (a) At any time within twenty days after the service of any final order, decision, rule or regulation, other than an order or award pertaining to compensation, any party or parties, person or persons, aggrieved thereby or otherwise affected, directly or indirectly, may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

(1) That the commission acted without or in excess of its powers.

(2) That the order or decision was procured by fraud.
(3) That the order, decision, rule or regulation is unreasonable.

(b) **Right of commission to adopt new rules, etc.** Nothing contained in this section shall be construed to limit the right of the commission, at any time and from time to time, to adopt new or different rules or regulations or new or different standards of safety, or to abrogate, change or modify any existing rule, regulation or standard, or any part thereof, or deprive the commission of continuing jurisdiction over the same, or to prevent the enforcement in the manner provided by this act, of any rules, regulations or standards of the commission, or any part thereof, when so adopted, or changed, or modified.

§ 67. **Application for writ of review.** (a) Within thirty days after the application for a rehearing is denied, or, if the application is granted, within thirty days after the rendition of the decision on the rehearing, any party affected thereby may apply to the supreme court of this state, or to the district court of appeal of the appellate district in which such person resides, for a writ of certiorari or review, hereinafter referred to as a writ of review, for the purpose of having the lawfulness of the original order, rule, regulation, decision or award, or the order, rule, regulation, decision or award on rehearing inquired into and determined.

(b) **Record of commission.** Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day the cause shall be heard in the court unless for good cause the same be continued. No new or additional evidence may be introduced in such court, but the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether

(1) The commission acted without or in excess of its powers.
(2) The order, decision or award was procured by fraud.
(3) The order, decision, rule or regulation was unreasonable.
(4) If findings of fact are made, such findings of fact support the order, decision or award under review.

(c) **Judgment of court.** The findings and conclusions of the commission on questions of fact shall be conclusive and final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of the commission. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceeding. Upon the hearing the court shall enter judgment either affirming or setting aside the order, decision or award or may remand the case for further proceedings before the commission.

(d) **Jurisdiction of courts limited.** The provisions of the Code of Civil Procedure of this state relating to writs of review shall, so far as applicable and not in conflict with this act, apply to proceedings in the courts under the provisions of this section. No court of this state, except the supreme court and the district courts of appeal to the extent herein specified, shall have jurisdiction to review, reverse, correct or annul

any order, rule, regulation, decision or award of the commission, or to suspend or delay the operation or execution thereof, or to restrain, enjoin or interfere with the commission in the performance of its duties; provided, that a writ of mandamus shall lie from the supreme court or the district courts of appeal in all proper cases.

§ 68. **Order, etc., suspended by application for rehearing.** The filing of an application for a rehearing shall have the effect of suspending the order, decision, award, rule or regulation affected, in so far as the same applies to the parties to such application, unless otherwise ordered by the commission, for a period of ten days, and the commission may, in its discretion and upon such terms and conditions as it may by order direct, stay, suspend or postpone the same during the pendency of such rehearing.

(b) **Stay of order by court.** The filing of an application for, or the pendency of, a writ of review, shall not of itself stay or suspend the operation of the order, decision, award, rule or regulation of the commission subject to review, but the court before which such application is filed may, in its discretion, stay or suspend in whole or in part the operation of the order, decision, award, rule or regulation of the commission subject to review, upon such terms and conditions as it may by order direct, except as provided in the following subsection.

(c) **Written undertaking by petitioner.** The operation of any order or award entered by the commission under the provisions of sections six to thirty-one, inclusive, of this act, or any judgment entered thereon, shall not at any time be stayed by the court to which petition is made for a writ of review, unless a written undertaking be executed on the part of the petitioner by two or more sureties, to the effect that they are bound in double the amount named in such order, award or judgment; that if the order, award or judgment appealed from, or any part thereof, be affirmed, or the proceeding upon review be dismissed, the petitioner shall pay the amount directed to be paid by the order, award or judgment, or the part of such amount as to which the order, award or judgment is affirmed, if affirmed only in part, and all damages and costs which may be awarded against the petitioner; and that, if the said petitioner does not make such payment within thirty days after the filing with the commission of the remittitur from the reviewing court, judgment may be entered, on motion of the adverse party, in his favor, and to which the said undertaking may be transferred, in any superior court in which a certified copy of the order or award may be filed against the sureties for such amount, together with interest that may be due thereon, and the damages and costs which may be awarded against the said petitioner. The provisions of the Code of Civil Procedure, except in so far as they may be inconsistent with this act, are applicable to said undertaking. Such undertaking shall be filed with the commission, and the certificate of the commission, or any proper officer thereof, of the filing and approval of such undertaking, is sufficient evidence of the compliance of the petitioner with the provisions of this subsection.

§ 69. **Interpretation by court.** (a) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed

by such court with the purpose of extending the benefits of the act for the protection of persons injured in the course of their employment.

(b) **Constitutionality.** If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

(c) **Employers engaged in interstate commerce.** This act shall not be construed to apply to employers or employments which, according to law, are so engaged in interstate commerce as not to be subject to the legislative power of the state, or to employees injured while they are so engaged, except in so far as this act may be permitted to apply under the provisions of the constitution of the United States or the acts of congress.

§ 70. **Other employers may come under provisions of act.** (a) Any employer, having in his employment any employee not included with the term "employee" as defined by section eight of this act or not entitled to compensation under this act, and any such employee, may, by their joint election, elect to come under the compensation provisions of this act in the manner hereinafter provided.

(b) **Other employers may come under provisions of act.** Such election on the part of the employer shall be made by filing with the commission a written statement to the effect that he accepts the compensation provisions of this act, which, when filed, shall operate, within the meaning of section six of this act, to subject him to the compensation provisions thereof, and of all acts amendatory thereof, for the term of one year from the date of filing, and thereafter without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or succeeding year, file in the office of the commission a notice in writing that he withdraws his election. Such acceptance shall be held to include employees whose employment is both casual and not in the course of the trade, business, profession or occupation of the employer, unless expressly excluded therefrom. In case any employer is insured against liability for compensation under this act, he shall be deemed to have so elected during the period that such policy shall remain in force, without filing such written notice with the commission, as to all classes of employees covered by such policy of insurance, anything in this act to the contrary notwithstanding.

(c) **Other employers subject to compensation privileges when.** Any employee in the service of any employer who has made an election in either of the modes above prescribed, shall be deemed to have accepted, and shall, within the meaning of section six of this act, be subject to the compensation provisions of this act, and of any act amendatory thereof, if, at the time of the injury for which liability is claimed:

(1) The employer charged with such liability is subject to the compensation provisions of this act, whether the employee has actual notice thereof or not; and

(2) Such employee shall not, at the time of entering into the employment, have given to his employer notice in writing that he elects not to be subject to the compensation provisions of this act; or, in the event that such employment was entered into in advance of the election by the employer, such employee shall have given to his employer notice in writing that he elects to be subject to such provisions, or without giving either of such notices, shall have remained in the service of such employer for five days after the employer has filed his election, in which case the time at which the employee becomes subject to said compensation provisions shall be deemed to be at the beginning of said period.

(d) **State employments.** The state, and all political or other subdivisions thereof, as defined in section seven, and all state institutions, shall be conclusively presumed to have elected to come within the provisions of this act as to all employments otherwise excluded from this act.

(e) **Acceptance of act of 1913 continued.** All written acceptances filed by employers with the commission prior to the taking effect of this act, accepting the provisions of the workmen's compensation, insurance and safety act, chapter one hundred seventy-six, Statutes of 1913, and all acts amendatory thereof, shall, unless written notice be given to the contrary by said employer within sixty days after the taking effect of this act, be deemed acceptances of the provisions of this act, and all acts amendatory thereof, in accordance with the provisions of this section.

§ 71. **Repealed. Continued.** Sections two, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-five *a*, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six and eighty-seven of chapter one hundred seventy-six, Statutes of 1913, and all other acts and parts of acts inconsistent herewith, are hereby repealed; provided, that nothing contained in this act shall be construed as limiting or repealing sections one, three, four, five, six, seven, eight, nine, ten, eleven, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, eighty-eight and ninety of the said chapter one hundred seventy-six, Statutes of 1913.

§ 72. **Proceedings, etc., under act of 1913 not disturbed.** Nothing contained in this act shall be construed to limit, interfere with, disturb, or render ineffective in any degree, any matter, proceeding or transaction pending, done or performed under the provisions of chapter one hundred seventy-six, Statutes of 1913, and all acts amendatory thereof, or sup-

plementary thereto, by the industrial accident commission, or any department or division thereof, or to affect any right or liability accrued or accruing or to accrue under said acts, but each and every part thereof are hereby expressly saved and continued under the jurisdiction of said industrial accident commission, with full power, authority and jurisdiction, and with the right and duty in said industrial accident commission to fully administer and dispose of the same.

§ 73. **Injuries sustained prior to passage of act.** The compensation provisions of this act, except procedural provisions, shall not apply to any injury sustained prior to the taking effect hereof.

§ 74. **In effect, when.** This act shall take effect on the first day of January, 1918.

ACT 2143d.

An act to prohibit employers or certain agents or representatives of employers from demanding or receiving any money or other consideration from an employee as a condition of employment or of continuing to perform services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics; and to provide a penalty for the violation thereof; and to repeal an act entitled "An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments, to demand or receive any fee, gift or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics," approved April 12, 1915.

[Approved May 5, 1917. Stats. 1917, p. 257. In effect July 27, 1917.]

§ 1. **Employer receiving gifts or part of tips from employees guilty of misdemeanor.** Any employer or agent or representative of an employer or other person having authority from his employer to hire, employ or direct the services of other persons in the employment of said employer, who shall demand or receive directly or indirectly from any person then in the employment of said employer, any fee, gift or other remuneration or other consideration, or any part or portion of any tips or gratuities received by such employee while in the employment of said employer, in consideration or as a condition of such employment or hiring or employing any person to perform such services for such employer or of permitting said person to continue in such employment, is guilty of a misdemeanor and upon conviction thereof shall be fined not more than three hundred ($300) dollars for such offense, or by imprisonment for not more than six months or by both fine and imprisonment. All fines imposed or collected under provision of this act shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

§ 2. **Employment agencies excepted.** Nothing contained in this act shall be construed to apply to employment agencies or employment agents licensed and operating under the laws of the state of California.

§ 3. **Enforcement.** This act shall be enforced by the commissioner of the bureau of labor statistics.

§ 4. **Stats. 1915, p. 61, repealed.** An act entitled "An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments to demand or receive any fee, gift, or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics," approved April 12, 1915, and designated chapter fifty-six of the Statutes of 1915, is hereby repealed.

ACT 2143e.

An act establishing and defining the jurisdiction of the industrial accident commission of the state of California and of the railroad commission of the state of California over the safety of employees of public utilities.

[Approved May 9, 1917. Stats. 1917, p. 296. In effect July 27, 1917.]

§ 1. **Jurisdiction of industrial accident commission over safety of employees of public utilities.** The industrial accident commission of the state of California is hereby vested with jurisdiction, as provided in the workmen's compensation, insurance and safety act of one thousand nine hundred seventeen, and acts amendatory thereof, subject to the provisions of section three hereof, over the safety of employees of steam railroads employed in shops devoted to the construction or repair of railroad equipment; the safety of employees of electric interurban or street railroads, employed in the generation, transmission or distribution of electric energy, or in shops devoted to the repair of railroad equipment, or in any nonpublic utility operation of such railroads; and the safety of employees of all other public utilities as such utilities are defined in the public utilities act.

§ 2. **Jurisdiction of railroad commission not affected.** The jurisdiction vested in the industrial accident commission of the state of California by section one hereof shall in no instance, except those affecting exclusively the safety of employees, be construed to impair, diminish or in any way affect the jurisdiction of the railroad commission of the state of California over the construction, reconstruction, replacement, maintenance or operation of the properties of public utilities as defined in the public utilities act, or over any matter affecting the relationship between such public utilities and their customers or the general public.

§ 3. **Power of railroad commission.** If the industrial accident commission, in the exercise of the authority and jurisdiction conferred by this act, makes or issues any order, decision, ruling or direction, which, in the judgment of the railroad commission, unduly and prejudicially interferes with the construction or operation of any public utility affected thereby, or with the public, or with a consumer or other patron of a public utility affected thereby, the railroad commission, of its own motion, or upon application of any utility or person so affected, may suspend,

modify, alter, or annul such order, decision, ruling or direction of the industrial accident commission, and the action of the railroad commission in that regard shall supersede and control the order, decision, ruling or direction of the industrial accident commission previously made in the premises.

§ 4. **Act of April 22, 1911, unaffected.** This act shall not be construed to repeal or modify the act entitled "An act regulating the placing, erection, use and maintenance of electric poles, wires, cables and appliances, and providing the punishment for the violation thereof," approved April 22, 1911, as amended.

ACT 2143f.

An act to provide for the protection of beneficiaries of workmen's compensation insurance policies against the default or insolvency of insurance carriers issuing such policies by requiring such carriers to provide security for the payment of such compensation.

[Approved May 9, 1917. Stats. 1917, p. 292. In effect July 27, 1917.]

§ 1. **Workmen's compensation insurance carrier to file bond.** Every insurance carrier, except the state compensation insurance fund, transacting the business of workmen's compensation insurance in this state, shall on the first day of October, A. D. 1917, file in the office of the insurance commissioner of this state a bond in favor of said insurance commissioner as trustee for the beneficiaries of awards of compensation rendered by the industrial accident commission, executed by said carrier and some surety company or companies approved by said insurance commissioner and authorized to transact the business of suretyship in this state. Said bond shall be in an amount not less than the reserve for outstanding losses of said insurance carrier on compensation insurance in this state on December 31, A. D. 1916, calculated as prescribed by the laws of this state, nor for more than double the amount of said reserve, but in no case for less than the sum of one hundred thousand dollars.

§ 2. **Bond to provide for payment of awards by surety.** It shall be provided in said bond that, in the event said insurance carrier shall fail to pay any award or awards which shall be rendered against it by said industrial accident commission, within thirty days after the same become final, the said surety will forthwith pay, to the extent of its liability under said bond, said award or awards to said insurance commissioner as trustee for said beneficiaries. Said bond shall further provide that, if said insurance carrier shall suspend payment or become insolvent or a receiver shall be appointed therefor, the said surety will pay said awards, to the extent of its liability under said bond, upon the expiration of thirty days after the same become final, without regard to any proceedings for the liquidation or reinstatement of said insurance carrier. It shall be further provided in said bond, but as a cumulative remedy only, that, in the event said insurance carrier shall fail to pay any award which shall be rendered against it by said industrial accident commission within thirty days after the same becomes final, an award may be rendered by said commission against said surety and in favor of said insurance commissioner as trustee for the beneficiary of said award with-

out notice to said surety for the amount of the unpaid portion of said award against said carrier. Said industrial accident commission is hereby vested with the same full power, authority and jurisdiction as to such awards against said sureties in such cases as it has over said insurance carrier, and it shall issue a certified copy thereof upon the application of any party affected thereby. Said party may file a certified copy of any such award in the office of the clerk of the superior court of any county or city and county of the state of California, and, upon the filing of the same, said clerk shall immediately enter a judgment thereon against said surety. Said certified copy of said award and said judgment shall constitute the judgment-roll and shall conclusively establish the liability of said surety without any additional evidence in any and all proceedings to renew said judgment or to enforce the payment thereof. Said bond shall provide for the payment of all legal costs, including reasonable attorneys' fees, incurred in all actions or proceedings taken to enforce payment of said bonds or payment of said awards or said judgments against said surety. No stay of execution of any such judgment shall be granted except upon the order of said industrial accident commission. Nothing herein contained shall operate to enlarge the liability of said surety beyond the penal sum of its bond. Payment of awards by said surety aggregating the amount of its bond shall constitute a full discharge of all liability under said bond.

§ 3. **Filing of new bond each year.** Every such insurance carrier shall on or prior to the first day of July of the year A. D. 1918, and of each succeeding year, file in the office of the insurance commissioner of this state a new bond conditioned as aforesaid in an amount not less than the amount of the reserve for outstanding losses of said insurance carrier on compensation insurance in this state on the thirty-first day of the month of December of the preceding year, as shown by its last report of said business filed in the office of said insurance commissioner, nor for more than double the amount of said reserve, but in no case for less than the sum of one hundred thousand dollars, except where said insurance carrier has ceased to do such business in this state, in which case said bond shall be fixed by said insurance commissioner at such amount as he may deem sufficient for the protection of the beneficiaries of the policies of such insurance carrier. Upon the filing of said new bond, approved as herein required, and not until such filing and approval, all liability under the previous bond shall thereby terminate. Said new bond shall embrace the entire liability of said previous bond except in so far as the same may have been paid or discharged.

§ 4. **Financial ability of surety.** Said insurance commissioner shall, before approving any such bond, satisfy himself of the financial ability of the surety to assume the obligations imposed thereby, and no company shall be accepted by him as surety which shall have assumed obligations in excess of the limits prescribed by standards of suretyship recognized as reasonable and proper and which it shall be the duty of said commissioner to promulgate for uniform application in such cases.

§ 5. **No authorization issued until bond filed.** No authorization shall be issued or renewed to any insurance carrier to transact the business of

workmen's compensation insurance in this state, until it has filed said bond with the insurance commissioner and the same has been approved by him. It shall be the duty of the insurance commissioner to notify the industrial accident commission of the approval and filing of every bond given pursuant to the provisions of this act.

§ 6. **Additional bond.** The insurance commissioner shall have the right, and it shall be his duty, to require any such insurance carrier at any time to file an additional bond, conditioned as aforesaid, if the amount of the bond then on file is in his judgment insufficient to cover the liability of said insurance carrier for said compensation, or if the surety on said bond has become insufficient in the judgment of the said commissioner.

§ 7. **Liability of two or more sureties.** Two or more surety companies may be accepted as sureties on said bond, or separate bonds may be executed by different sureties for amounts aggregating the sum specified by the said commissioner. In such cases each of said sureties shall be jointly and severally liable to the extent of the amount of the liability assumed by it.

§ 8. **Liability of sureties.** The liability of the sureties under the bonds hereby required to be given shall be the entire liability of the principals named therein, not exceeding the amount of said bonds or the limit of the liability assumed by any such surety, for the payment of awards of compensation rendered or to be rendered against said principals by said industrial accident commission under the terms of the workmen's compensation insurance and safety act and acts amendatory thereof and supplementary thereto, without regard to the time when the injury upon which an award was based may have occurred, but said bond shall not include any other liability of said carrier nor shall any payment made under any such bond by said surety be applied otherwise than in satisfaction of awards of compensation rendered by said industrial accident commission.

§ 9. **Insurance commissioner may act as trustee.** Full power and authority is hereby conferred upon said insurance commissioner to act as trustee for all beneficiaries under awards rendered by said industrial accident commission, and he may take assignments in his own name as trustee and as such he shall have the authority to institute and maintain actions against said sureties, and, upon the collection by him by suit or otherwise of the amount of said awards, he shall pay the same to the parties entitled thereto. The payment of any such award or part thereof by said insurance commissioner shall constitute a satisfaction thereof to the extent of the payment made and, in the event any judgment shall have been entered on any such award, the said commissioner shall file a satisfaction thereof, to the extent of said payment, in the office of the clerk of the court wherein such judgment has been entered.

§ 10. **Right of surety to require new bond of principal.** Any such surety shall have the right to require the principal on its bond, on thirty days' notice, to furnish a new bond, to be approved by the insurance commissioner as in other cases, and, in the event of a failure to do so,

said principal shall forfeit the right to continue to issue compensation policies in this state.

§ 11. **Deposit of security with state treasurer.** Any compensation insurance carrier may, in lieu of said bond and subject to the same conditions, deposit with the state treasurer, through the insurance commissioner, from time to time as may be demanded by said commissioner, cash or approved interest-bearing securities readily convertible into cash, equal to the reserves for outstanding losses required by section six hundred two (a) of the Political Code at the time of said deposit, on the compensation business of said carrier in the state of California, calculated as hereinbefore provided, as security for the payment of its obligations on said business done in this state, and said deposit shall not be withdrawn except upon the written order of the insurance commissioner in payment of compensation claims, but shall be forthwith payable by the state treasurer to the insurance commissioner upon such order; provided, that any such deposit, or any remainder thereof, may be repaid to such carrier upon satisfactory showing to the insurance commissioner that every liability to pay compensation shall have been reinsured with a solvent carrier or fully paid and discharged. Said deposit shall be used only for the payment of compensation claims so long as there shall remain unpaid any such claim or any part thereof.

§ 12. **Revocation of certificate.** The insurance commissioner shall have power to revoke the certificate of authority to transact compensation insurance business in this state of any insurance carrier failing to comply with the requirements of this act.

ACT 2144a.

An act to promote the general welfare of the people of this state as affected by accident causing the injury or death of employees in the course of their employment, by creating a liability on the part of employers to compensate such employees and their dependents for such accidental injury or death irrespective of the fault of either party, and providing the means and methods of enforcing such liability; and creating a "state compensation insurance fund" to insure employers against such liability and providing for its administration and regulating such insurance by other insurance carriers; and requiring safety in all employments and places of employment in this state and providing the means and methods of enforcing such safety; and requiring reports of industrial accidents; and providing penalties for offenses by employers, their officers, agents, and by employees and other persons and corporations; and creating an industrial accident commission, providing for its organization, defining its powers and duties and providing for a review of its orders, decisions and awards; and appropriating moneys to carry out the provisions of this act; and repealing all acts and parts of acts inconsistent with the provisions of this act.

[Approved May 26, 1913. Stats. 1913, p. 279.]

Amended 1915, pp. 913, 1079, 1302.

Sections 2, 12–35, 51–87 repealed May 23, 1917; Stats. 1917, p. 831.

See Act 2143c.

ACT 2144g.

An act requiring employers who provide hospital service for their employees and who make a charge therefor, to keep books, records and accounts of all such charges, and to make an annual written report thereof; requiring each such charge to be just and reasonable and to be devoted to no other purpose than such hospital service; and prescribing penalties for violations of the provisions thereof.

[Approved June 8, 1915. Stats. 1915, p. 1310.]

Amended 1917; Stats. 1917, p. 83.

The amendment of 1917 follows:

§ 3. **Hospital charges must be just.** Every such hospital charge demanded, collected or received by an employer shall be just and reasonable. The railroad commission is hereby given authority to decide what is an unreasonable charge in all cases where such charge is made by a hospital maintained by a common carrier by rail, and in all cases where the charge is made by a hospital maintained by other than a common carrier by rail, the industrial accident commission is hereby given authority to decide what is an unreasonable charge. [Amendment approved April 6, 1917; Stats. 1917, p. 83.]

§ 5. **Common carrier subject to railroad commission. Other employers under industrial accident commission.** Every common carrier by rail employer who is under a duty to render the report referred to in section two of this act shall be subject to the jurisdiction, control and regulation of the railroad commission in respect to auditing and inspection of all books, records and accounts and to enforce its orders in the same manner and to the same extent as said commission now possesses over any public utility that is subject to the provisions of the "public utilities acts" of this state, approved December 23, 1911, as amended June 11, 1913, and June 14, 1913, and all acts amendatory thereof or supplemental thereto. Every employer coming under the provisions of this act shall be required to post a copy of this statement or report upon all bulletin-boards at terminals or in a conspicuous place where employees can read such statement or report. Every employer other than a common carrier by rail, who is under a duty to render the report referred to in section two of this act, shall be subject to the jurisdiction, control and regulation of the industrial accident commission in respect to the auditing and inspection of all books, records and accounts and the authority is hereby conferred upon said industrial accident commission to enforce by appropriate orders and processes the provisions of this act. The written report required by section two hereof when made by a common carrier by rail shall be filed with the railroad commission. All other written reports required by section two hereof shall be filed with the industrial accident commission. [Amendment approved April 6, 1917; Stats. 1917, p. 83.]

TITLE 336.

MEDICINE.

ACT 2164.

An act to regulate the examination of applicants for license, and the practice of those licensed, to treat diseases, injuries, deformities,

or other physical or mental conditions of human beings; to establish a board of medical examiners, to provide for their appointment and prescribe their powers and duties, and to repeal an act entitled "An act for the regulation of the practice of medicine and surgery, osteopathy, and other systems or modes of treating the sick or afflicted, in the state of California, and for the appointment of a board of medical examiners in the matter of said regulations," approved March 14, 1907, and acts amendatory thereof, and also to repeal all other acts and parts of acts in conflict with this act.

[Approved June 2, 1913. Stats. 1913, p. 722.]

Amended 1915, p. 184; 1917, p. 93.

The amendment of 1917 follows:

§ 2. Board of medical examiners organized. Meetings. Applications for certificates. Directory of practitioners. Fees. Forfeiture of license and restoration. Surplus receipts. The board shall be organized on or before the first Tuesday of September, 1913, by electing from its number a president, vice-president, and a secretary who shall also be the treasurer, who shall hold their respective positions during the pleasure of the board. The board shall hold one meeting annually beginning on the third Monday in October in the city of Sacramento and at least two additional meetings annually, one of which shall be held in the city of Los Angeles, and the other in the city of San Francisco, with power of adjournment from time to time until its business is concluded; provided, however, that examinations of applications for certificates may, in the discretion of the board, be conducted in any part of the state designated by the board. Special meetings of the board may be held at such time and place as the board may designate. Notice of each regular or special meeting shall be given twice a week for two weeks next preceding each meeting in one daily paper published in the city of San Francisco, one published in the city of Sacramento, and one published in the city of Los Angeles, which notice shall also specify the time and place of holding the examination of applicants. The secretary of the board upon an authorization from the president of the board or the chairman of a committee, may call meetings of any duly appointed committee of the board at a specified time and place and it shall not be necessary to advertise such committee meetings. The board shall receive through its secretary applications for certificates provided to be issued under this act and shall, on or before the first day of January of each year, transmit to the governor a full report of all its proceedings together with a report of its receipts and disbursements. The board shall, on or before the first day of January of each year, compile and may thereafter publish and sell, a complete directory giving the addresses of all persons within the state of California who hold unrevoked licenses to practice under any medical practice act of the state of California, which license shall in any manner authorize the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions. The board is hereby authorized to require said persons to furnish such information as it may deem necessary to enable it to compile the directory.

The directory shall contain in addition to the names and addresses of said persons, the names and symbols indicating the title, name or names, school or schools, which such person has attended and from which graduated, the date of issuance of the license, the present residence of said person and a statement of the form of certificate held. The directory shall be prima facie evidence of the right of the person or persons named therein to practice. It shall be the duty of every person holding a license to practice under any medical act of this state, or who may hereafter be so licensed to practice, to report immediately each and every change of residence, giving both the old and the new address. To comply with the provisions of this section relating to the compilation, publication and sale of a directory in addition to the fee required for the filing of any application, or the issuance of any certificate hereinafter provided for, each licentiate granted a certificate under the provisions of this act, or any preceding medical practice act of the state of California, shall, on or before the first day of January of each year, pay to the secretary-treasurer of the board of medical examiners an annual tax and registration fee of two dollars ($2). Receipt or acknowledgment of payment by the secretary-treasurer shall be evidence that the holder and possessor of such certificate is entitled to practice the particular system for which he was granted such certificate for a period of one year from the first day of January; but notwithstanding the possession by any certificate-holder of such receipt or acknowledgment of payment, the license or certificate issued to such licentiate to practice any system recognized by this or any preceding medical practice act of the state of California, may, at any time, be forfeited or revoked for a violation of the further provisions and requirements of this act. The failure, neglect and refusal of any person holding a license or certificate to practice a system under this or any preceding medical practice act of the state of California, to pay said annual tax of two dollars ($2) during the time his or her license remains in force, shall, after a period of sixty days from the first day of January of each year, ipso facto, work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor, and the payment to the said board of a fee of ten dollars ($10) except that such licentiate who fails, refuses or neglects to pay such annual tax within a period of sixty days after the first day of January of each year shall not be required to submit to an examination for the reissuance of such certificate. It shall be the duty of the executive officer herein designated as the secretary-treasurer of said board of medical examiners to mail to the last known address of each licentiate who has paid said annual tax a copy of the said directory, and all new issues thereof and copies of all supplements thereto. The receipts of the said annual tax referred to herein shall be paid into the contingent fund of the board of medical examiners of California, and after the expenses of issuing said directories have been paid, in the event that there shall be a surplus of such funds, the board may from time to time, in its discretion, apply said surplus for any other expenses incurred by the board under the provisions of this act. [Amendment approved April 11, 1917; Stats. 1917, p. 94.]

§ 8. Forms of certificates. "Physician and surgeon certificate." "Drugless practitioner certificate." Chiropody certificate. Midwifery

certificate. Reciprocity certificate. Four forms of certificates shall be issued by said board under the seal thereof and signed by the president and secretary; first, a certificate authorizing the holder thereof to use drugs or what are known as medicinal preparations in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, or other physical or mental conditions, which certificate shall be designated "physician and surgeon cetificate"; second, a certificate authorizing the holder thereof to treat diseases, injuries, deformities, or other physical or mental conditions without the use of drugs or what are known as medicinal preparations and without in any manner severing or penetrating any of the tissues of human beings except the severing of the umbilical cord, which certificate shall be designated "drugless practitioner's certificate"; third, a certificate authorizing the holder thereof to practice chiropody; for the purpose of this act chiropody is defined to be the surgical treatment of abnormal nails and superficial excrescences occurring on the feet, such as corns, callosities, and the treatment of bunions; but it shall not confer the right to operate upon the feet for congenital or acquired deformities, or for conditions requiring the use of anesthetics other than local, or incisions involving structures below the level of the true skin; fourth, a certificate to practice midwifery which shall be in the form designated by the board and in conformity with this act. Such certificate shall entitle the holder thereof to attend cases of childbirth. As used in this act, the practice of midwifery means the furthering or undertaking by any person to assist a woman in normal childbirth, but it does not include at any childbirth the use of any instrument, except such instrument as is necessary in severing the umbilical cord, nor the assisting of childbirth by any artificial, forcible or mechanical means, nor the performance of any version, nor the removal of adherent placenta, nor the administering, prescribing, advising or employing in childbirth of any drug, other than a disinfectant or cathartic. The provisions hereof shall not authorize any midwife to practice medicine and surgery. A "reciprocity certificate" shall also be issued under the provisions hereinafter specified. Any of these certificates on being recorded in the office of the county clerk, as hereinafter provided, shall constitute the holder thereof a duly licensed practitioner in accordance with the provisions of his certificate. [Amendment approved April 11, 1917; Stats. 1917, p. 94.]

§ 9. Applicants must file testimonials, diplomas, etc. Preliminary education. Work in physics, chemistry and biology. Every applicant must file with the board, at least two weeks prior to the regular meeting thereof, satisfactory testimonials of good moral character, and a diploma or diplomas issued by some legally chartered school or schools approved by the board, the requirements of which school or schools shall have been at the time of granting such diploma or diplomas in no degree less than those required under this act, or satisfactory evidence of having possessed such diploma or diplomas, and must file on affidavit stating that he is the person named in said diploma or diplomas, and that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination without fraud or misrepresenta-

tion; provided, that in addition thereto, each applicant for a "physician and surgeon certificate" must show that he has attended four courses of study, each such course to have been of not less than thirty-two weeks duration, but not necessarily pursued continuously, or consecutively, and that at least ten months shall have intervened between the beginning of any course and the beginning of the preceding course; provided, further, that an applicant for a "drugless practitioner certificate" must show that he has attended two courses of study, each such course to have been of not less than thirty-two weeks duration, but not necessarily pursued continuously or consecutively, and that at least ten months shall have intervened between the beginning of any course and the beginning of the preceding course; the course in chiropody is to consist of not less than thirty-nine weeks consisting of not less than six hundred sixty-four hours; provided, further, that an applicant for a certificate to practice midwifery must show that the applicant has attended a one-year course in a hospital recognized as reputable by the board, and that a course of instruction in anatomy, physiology, obstetrics and hygiene and sanitation as set forth in section ten hereof has been taken, covering a period of one year; provided, further, that in lieu thereof, an applicant who can submit satisfactory proof of the possession of a diploma from a recognized reputable hospital, and who in addition thereto has attended a course of instruction in the subjects enumerated in section ten hereof and satisfactory proof that such instruction has been taken covering a period of at least three months; and provided, further, that in lieu thereof an applicant may present proof satisfactory to the board that the applicant has taken a course of instruction with the minimum requirements as designated in section ten of any school or schools approved by the board as giving a course of instruction in said subjects for a certificate to practice medicine and surgery; provided, also, that before July 1, 1918, in lieu of the diploma or diplomas and preliminary requirements herein referred to where the applicant can show to the satisfaction of the board of medical examiners that he has taken courses hereinafter required in a school or schools approved by the board totaling for applicants for "drugless practitioner certificate" not less than sixty-four weeks consisting of not less than two thousand hours and for "physician and surgeon certificate" totaling not less than one hundred twenty-eight weeks consisting of not less than four thousand hours, it being required that all applicants shall have received passing grades in all such courses, that the applicant or applicants shall be admitted to examination for their respective form of certificates.

The said application shall be made upon a blank furnished by said board and it shall contain such information concerning the medical instruction and the preliminary education of the applicant as the board may by rule prescribe. In addition to the requirements hereinabove provided for, applicants for any form of certificate hereunder shall present to said board at the time of making such application a diploma from a California high school or other school in the state of California requiring and giving a full four years' course of same grade, or other schools elsewhere, requiring and giving a full four years' standard high school course, or its equivalent, approved by the board, together with satis-

factory proof that he is the lawful holder of such diploma, and that the same was procured in the regular course of instruction. The passing of an examination before the entrance examining board for the entrance to the academic department of the University of California, or Stanford University or the University of Southern California, or the possession of documentary evidence of admission to the academic department of such institutions as a regular student or in full standing shall be sufficient basic or preliminary educational qualifications. In lieu of such diploma, the applicant may present: (1) a certificate from the college entrance examination board, or the college examining board of any state or territory showing that such applicant has successfully passed the examination of said board; or (2) if such applicant be thirty years or more of age he may show to the satisfaction of the board of medical examiners proof of preliminary education equivalent in training power to the foregoing requirements. After January 1, 1919, every applicant for a "physician and surgeon certificate" shall in addition to the foregoing requirements, present to the board satisfactory evidence that before beginning the last half of the second year in the study of medicine he has completed a course which includes at least one year of work, of college grade, in each of the subjects of physics, chemistry, and biology. The preliminary or basic educational requirements for a chiropodist, shall be as follows: On and after July 5, 1915, the successful completion of one year of high school work or its equivalent; on and after July 1, 1918, two years of high school work or its equivalent; on and after July 1, 1920, three years of high school work or its equivalent; on and after July 1, 1922, four years of high school work or its equivalent.

The preliminary or basic educational qualifications for an applicant to practice midwifery in this state shall be the completion of one year of high school work or its equivalent, and after October, 1918, the presentation to the board of a diploma from a California high school giving a full four years' standard high school course or its equivalent. [Amendment approved April 11, 1917; Stats. 1917, p. 97.]

§ 10. Course of instruction. Physicians and surgeons. Drugless practitioners. Chiropodists. Midwives. Hours required. Applicants for any form of certificate shall file satisfactory evidence of having pursued in any legally chartered school or schools, approved by the board, a course of instruction covering and including the following minimum requirements:

For a "Physician and Surgeon Certificate."

Group 1. 775 hours.	
Anatomy	550 hours
Embryology	75 hours
Histology	150 hours
Group 2. 620 hours.	
Elementary chemistry and toxicology	140 hours
Advanced chemistry	180 hours
Physiology	300 hours

Group 3. 450 hours.	
Elementary bacteriology	60 hours
Advanced bacteriology	80 hours
Hygiene	60 hours
Pathology	250 hours
Group 4. 240 hours.	
Materia medica	80 hours
Pharmacology	105 hours
Therapeutics	55 hours
Group 5. 940 hours.	
Dermatology and syphilis	45 hours
General medicine and general diagnosis	600 hours
Genito-urinary diseases	45 hours
Nervous and mental diseases	110 hours
Pediatrics	140 hours
Group 6. 680 hours.	
Laryngology, otology, rhinology	60 hours
Opthalmology	60 hours
Surgery and surgical diagnosis	500 hours
Orthopedic surgery	30 hours
Physical therapy, including electrotherapy, X-ray, radiography, hydrotherapy	30 hours
Group 7. 265 hours.	
Gynecology	100 hours
Obstetrics	165 hours
Miscellaneous. 30 hours.	
Ethics, jurisprudence, etc	30 hours
Total	4,000 hours

For a "Drugless Practitioner Certificate."

Group 1. 600 hours.	
Anatomy	485 hours
Histology	115 hours
Group 2. 270 hours.	
Elementary chemistry and toxicology	70 hours
Physiology	200 hours
Group 3. 235 hours.	
Elementary bacteriology	40 hours
Hygiene	45 hours
Pathology	150 hours
Group 4. 370 hours.	
Diagnosis	370 hours
Group 5. 260 hours.	
Manipulative and mechanical therapy	260 hours
Group 6. 265 hours.	
Gynecology	100 hours
Obstetrics	165 hours
Total	2,000 hours

For a Certificate to Practice Chiropody.

Group 1. 117 hours.	
Anatomy	78 hours
Histology	39 hours
Group 2. 156 hours.	
Chemistry and toxicology	78 hours
Physiology	78 hours
Group 3. 103 hours.	
Bacteriology	39 hours
Hygiene	25 hours
Pathology	39 hours
Group 4. 44 hours.	
Diagosis:	
Syphilis	20 hours
Dermatology	24 hours
Group 5. 215 hours.	
Manipulative and mechanical therapy:	
Didactic and clinical chiropody	136 hours
Orthopedics	20 hours
Surgery	59 hours
Group 6. 29 hours.	
Materia medica and therapeutics	29 hours
Total	664 hours

For a Certificate to Practice Midwifery.

Group 1. 150 hours.	
Anatomy	75 hours
Physiology	75 hours
Group 2. 265 hours.	
Hygiene and sanitation	100 hours
Obstetrics	165 hours
Total	415 hours

In the course of study herein outlined the hours required shall be actual work in the classroom, laboratory, clinic or hospital, and at least eighty (80) per cent of actual attendance shall be required; provided, that the hours herein required in any subject need not exceed seventy-five (75) per cent of the number specified, but that the total number of hours in all the subjects of each group shall not be less than the total number specified for such group. [Amendment approved April 11, 1917; Stats. 1917, p. 99.]

§ 11. Additional requirements for physicians and surgeons. For drugless practitioners. Exceptions. Examination for chiropodists. Examination for midwives. Re-examination. Admission to drugless practitioner examination. Admission without examination. Examination papers kept on file. Secretary not to be examiner. Form of certificates. In addition to above requirements, all applicants for "physician and sur-

geon certificate" must pass an examination to be given by the board in the following subjects:

1. Anatomy and histology.
2. Physiology.
3. Bacteriology and pathology.
4. Chemistry and toxicology.
5. Obstetrics and gynecology.
6. Materia medica and therapeutics, pharmacology, including prescription-writing.
7. General medicine, including clinical microscopy.
8. Surgery.
9. Hygiene and sanitation.

All applicants for "drugless practitioner certificates" must pass an examination in the following subjects:

1. Anatomy and histology.
2. Physiology.
3. General diagnosis.
4. Pathology and elementary bacteriology.
5. Obstetrics and gynecology.
6. Toxicology and elementary chemistry.
7. Hygiene and sanitation.

Provided, that a person who holds a "drugless practitioner certificate," issued upon satisfactory proof of the course of instruction and minimum requirements demanded in section ten hereof and who presents evidence of having successfully completed the additional courses required for the "physician and surgeon certificate" as hereinbefore provided, shall be permitted to take his examination in subjects required for a "physician and surgeon certificate" without being re-examined in "drugless practitioner" subjects.

The subjects for such examination shall be:

1. Advanced chemistry.
2. Advanced bacteriology.
3. Surgery.
4. Materia medica and therapeutics, pharmacology, including prescription writing.
5. General medicine, including clinical microscopy.

All applicants for a certificate to practice chiropody must pass an examination in the following subjects:

1. Anatomy and histology.
2. Physiology, chemistry and hygiene.
3. Pathology and bacteriology.
4. Dermatology and syphilis.
5. Orthopedics and surgery.
6. Chiropody and therapeutics.

All applicants for a certificate to practice midwifery must pass an examination in the following subjects:

1. Anatomy and physiology.
2. Obstetrics.
3. Hygiene and sanitation.

All examinations shall be practical in character and designed to ascertain the applicant's fitness to practice his profession, and shall be

conducted in the English language, and at least a portion of the examination in each of the subjects shall be in writing. The board in its discretion upon the submission of satisfactory proof from the applicant that he is unable to meet the requirements of the examination in the English language, may allow the use of an interpreter either to be present in the examination room or to thereafter interpret and transcribe the answers of the applicant. The selection of such interpreter is to be left entirely to the board and the expenses thereof to be borne by the applicant, the payment therefor to be made before such examination is held. There shall be at least ten questions on each subject, the answers to which shall be marked on a scale of zero to one hundred. Each applicant must obtain no less than a general average of seventy-five per cent, and not less than sixty per cent in any two subjects; provided, that any applicant shall be granted a credit of one per cent upon the general average for each pear of actual practice since graduation; provided, further, that any applicant for "physician and surgeon certificate" obtaining seventy-five per cent each in seven subjects and any applicant for "drugless practitioner certificate" obtaining seventy-five per cent each in five subjects and an applicant for a certicate to practice chiropody obtaining over seventy-five per cent in seven subjects, and an applicant for a certificate to practice midwifery obtaining seventy-five per cent in one subject, shall be subsequently re-examined in those subjects only in which he failed, and without additional fee. Any person who at any time prior to January 1, 1916, shall pay to the secretary of said board the fee of twenty-five dollars and submits satisfactory proof of good moral character and of a resident one-year course of not less than one thousand hours in a legally chartered school approved by the board and satisfactory proof of three years of actual practice of a drugless system of the healing art, such three years of actual practice to have been in the state of California, shall be admitted to the drugless practitioner examination; provided, however, that in the event of a license being granted to such applicant he will not be eligible thereafter for the physician's and surgeon's certificate without a full and complete compliance with the terms and provisions of sections nine and ten hereof. Anyone who shall pay the fee of fifty dollars to the secretary of the board prior to January 1, 1916, and submits to the board satisfactory proof of good moral character and proof of six years' actual practice of a drugless system of the healing art, three years of which must have been in the state of California, and satisfactory proof of a resident one-year course of not less than one thousand hours in a legally chartered school approved by the board and upon proof of competency in a drugless system may be granted a certificate to practice a drugless system in this state; provided, however, that such licensee shall not be permitted to take the physician's and surgeon's examination without a full and complete compliance with the terms of sections nine and ten hereof.

The examination papers shall form a part of the records of the board, and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the

application. The secretary of the board shall in no instance participate as an examiner in any examination held by the board. All questions on any subject in which examination is required under this act shall be provided by the board of medical examiners upon the morning of the day upon which examination is given in such subject, and when it shall be shown that the secretary or any member of the board has in any manner given information in advance of or during examination to any applicant it shall be the duty of the governor to remove such person from the board of medical examiners, or from the office of secretary.

All certificates issued hereunder must state the extent and character of practice which is permitted thereunder and shall be in such form as shall be prescribed by the board. [Amendment approved April 11, 1917; Stats. 1917, p. 102.]

§ 12. Army and navy surgeons authorized to practice. Fee. When certificate may be refused. Exceptions. Any medical director, medical inspector, passed assistant surgeon, or assistant surgeon of the United States navy, honorably discharged or temporarily detached, or placed upon the retired list without being discharged or on active duty, from the medical department of the United States navy, or who by resignation has honorably severed all connection with the service, and any surgeon of the United States army, honorably discharged, or temporarily detached or placed upon the retired list without being discharged or on active duty from the medical department of the United States army, or who by resignation has honorably severed all connection with the service and any commissioned officer, viz.: surgeon general, assistant surgeon general, senior surgeon, surgeon, passed assistant surgeon and assistant surgeon of the United States public health service on active duty with such service, temporarily detached or who has honorably severed all connection with the United States public health service, is hereby authorized to practice medicine and surgery within the state of California by filing a sworn copy of his discharge, if he be discharged, or of the order temporarily detaching him or the order placing him upon the retired list, with the state board of medical examiners or by proving to the satisfaction of the board that by resignation he has honorably left the service of either the army or navy, and paying said board a fee of fifty dollars; provided, that when it appears to the satisfaction of the board, that in the year in which the applicant was appointed or commissioned in the United States army, navy or public health service, that the requirements of such service for such appointment or commission, were in any degree or particular less than those which were required for the issuance of a similar certificate to practice in California at the date of such issuance, then the board in its discretion may refuse to issue such certificate; provided, further, that the provisions of this section shall not apply to any contract surgeon in the United States army, navy or public health service, and shall not apply to any officer of the medical reserve corps of said army, navy or public health service. [Amendment approved April 11, 1917; Stats. 1917, p. 104.]

§ 12½. Chiropody certificate for persons already practicing, Midwifery certificate to persons already practicing. Investigation of moral character. Applicants to practice osteopathy. Examination. Any per-

son who at any time within ninety days from and after the passing of this act shall pay to said board, the registration fee of fifty dollars, as herein provided, and furnish to said board satisfactory proof of the fact that such applicant has been actually engaged in the practice of chiropody in the state of California for the period of one year prior to July 1, 1915, and that such applicant possesses a good moral character and competency in the practice of chiropody, shall be entitled to practice chiropody, and said board must issue to him a chiropody certificate.

Any person who at any time within one hundred eighty days from and after the passing of this act shall pay to said board the registration fee of twenty dollars as herein provided, and furnish to said board satisfactory proof that such applicant has been actually engaged in the practice of midwifery in the state of California for at least a period of one year, and that such applicant possesses a good moral character and competency in the practice of midwifery, shall be entitled to practice midwifery, and said board must issue to such applicant a midwifery certificate.

The actual practice referred to herein shall consist in satisfactory proof that the applicant has attended at least twenty-five cases of labor and has had the care of at least twenty-five mothers and new-born infants during the lying-in period. The lying-in period referred to herein shall consist of a period of ten days following delivery. The good moral character referred to herein shall be evidenced by the certificates of two physicians and surgeons or practitioners licensed under this or any preceding medical practice act of this state, and the certificate of one layman, preferably a clergyman, priest, rabbi or recognized minister of the gospel. The competency referred to herein shall be evidenced by affidavits of reputable citizens preferably physicians of the vicinity wherein the applicant has recently resided. The board, however, may disregard such certificates and in its discretion may give an oral, practical or clinical examination. The proof of the attendance and completion of the twenty-five cases of labor referred to herein shall be evidenced, if the board shall so require of any applicant, by the submission of the name of the mother, and a reference to the birth certificate required under the law. The board shall have the power to disregard the certificates of moral character referred to herein and may order that an investigation under the direction of the board be held upon the moral character of the applicant. If the said investigation should result in an adverse report to applicant, the applicant shall be entitled to a hearing before said board and after such hearing the board shall be the judges of the moral fitness of the applicant to receive a certificate to practice midwifery. In the event that a certificate to practice midwifery shall not be granted under the provisions of this section, the applicant will be entitled to a refund of ten dollars. Any person who files an application for a "physician and surgeon certificate" two weeks prior to a regular or special meeting, and who submits satisfactory proof to the board that the applicant has been licensed to practice osteopathy under the provisions of an act entitled "An act to regulate the practice of osteopathy in the state of California and to provide for the state board of osteopathic examiners, and to license osteopaths who practice in this state, and to punish persons violating the provisions of this act," which became a law under

constitutional provision without the governor's approval March 9, 1901, or who submits satisfactory proof that the applicant has been licensed to practice osteopathy under an act entitled "An act to provide for the regulation of the practice of medicine and surgery, osteopathy and other systems or modes of treating the sick or afflicted in the state of California, and for the appointment of a board of medical examiners in the matter of said regulation, approved March 14, 1907, and who submits satisfactory testimonials of good moral character and a diploma or diplomas issued by some legally chartered school or schools approved by the board, or satisfactory evidence of having possessed such diploma or diplomas and that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination without fraud or misrepresentation, and that the applicant has complied with the provisions of sections nine, ten and eleven of this act, may be granted an oral, practical or clinical examination for the "physician and surgeon certificates"; provided, that the board must accept in lieu thereof the educational qualifications enumerated in this section or in sections nine, ten and eleven of this act satisfactory proof to the board of actual practice in the system of treatment known and designated as osteopathy for a period of four years, and upon the presentation of such proof the applicant will be entitled to an oral, practical or clinical examination for a "physician and surgeon certificate." The fee for filing such application shall be twenty-five dollars, fifteen dollars to be returned to the applicant in the event that a certificate is not issued under the provisions hereof. [Amendment approved April 11, 1917; Stats. 1917, p. 105.]

§ 13. Certificates to applicants licensed to practice since August 1, 1901. Requirements. Contracts of reciprocity. Applicant with certificate prior to August 1, 1901. Examination. Fee. Said board must also issue a certificate to practice a system or mode of treating the sick or afflicted recognized by this act or any preceding practice act in the state of California to any applicant, without any examination, authorizing the holder thereof to practice a system or mode of treating the sick or afflicted in the state of California, upon payment of a registration fee of one hundred dollars, upon the following terms and conditions and upon satisfactory proof thereof, viz.: The applicant shall produce a certificate entitling him to practice a system or mode of treating the sick or afflicted, as provided in this act or any preceding practice act of the state of California, issued either by the medical examining board, or by any other board or officer authorized by the law to issue a certificate entitling such applicant to practice a system or mode for treating the sick or afflicted either in the District of Columbia or in any state or territory of the United States, or if such certificate shall have been lost, then a copy thereof, with proof satisfactory to the board of medical examiners of the state of California that the copy is a correct copy. Said certificate must not have been issued to such applicant prior to the first day of August, 1901, and the requirements from the college from which such applicant may have graduated, and the requirements of the board which was legally authorized to issue such certificate permitting such applicant to practice a system or mode of treating the sick or afflicted shall not have been at the time such certificate was issued, in any degree or particular less than those which were required for the issuance

of a similar certificate to practice a system or mode of treating the sick or afflicted in the state of California at the date of the issuance of such certificate, or which may hereafter be required by law and which may be in force at the date of the issuance of any such certificate; and provided, further, that said applicant shall furnish from the board which issued said certificate, evidence satisfactory to the board of medical examiners of the state of California showing what the requirements were of the college and of the board, issuing such certificate at the date of such issuance. If, after an examination of such certificate, and the production on the part of the applicant of such further reasonable evidence of the said requirements as may be deemed necessary by the board of medical examiners of the state of California and any other or further examination or investigation which said board may see fit to make on its own part, it shall be found that the requirements of the board issuing such certificate were, when said certificate was issued, in any degree or particular less than the requirements provided by the law of the state of California at the date of the issuance of such certificate or that the applicant has not been a resident of the state from which the application is based for a period of one year subsequent to the issuance of such certificate he will not be entitled to practice within the state of California without an examination. An oral examination shall not be deemed to be of equal merit with a written examination and no certificate shall be issued in the case where a written examination was given in California and an applicant was given an oral examination in another state at the same time. The board is hereby authorized to enter into a contract or contracts of reciprocity with other states wherein the standard of such states is not in any degree or particular less than were the requirements in the state of California in the same year, for the issuance of a certificate to practice a system or mode of treating the sick or afflicted, such certificate to be similar in scope of practice as the certificate issued in the other state; provided, however, that an application based upon a certificate to practice any system or mode of treating the sick or afflicted issued in the District of Columbia or in any state or territory prior to March 4, 1907, if refused or denied by reason of the insufficiency of the standard of such state or territory then such applicant may have the privilege of either a written or oral examination before the board at the option of the applicant. Any person may file an application with the said board to practice medicine and surgery within the state of California, in the event that such applicant has been duly licensed prior to August 1, 1901, and has practiced medicine and surgery in another state or territory, or the District of Columbia, for a period of time commencing prior to the first day of August, 1901. Such application shall be verified and shall contain a statement showing: (a) the full name of the applicant; (b) all institutions at which he has studied and the period of such study, and all institutions from which he has graduated; (c) a statement of whatever certificate or certificates to practice medicine and surgery may have been issued to him, together with the date of such certificate and a description of the same, and, if required by the board, the certificates themselves, or satisfactory proof of their issuance; (d) a statement of all places in which said applicant has practiced medicine and surgery; (e) such other general information as to

his past practice, as may be required by the said board. The said board shall make such independent investigation of the character, ability and standing of the applicant as it may deem proper and necessary, and if it shall find after such investigation that said applicant has been a practicing physician and surgeon in any other state or territory or the District of Columbia, prior to August 1, 1901, and prior to said last-named date has been duly licensed so to practice, and that his reputation as such physician and surgeon is good in the community in which he has so practiced medicine and surgery, and has been a resident of his last state of residence for a period of one year prior to date of filing his application in the state of California, they shall afford him an examination on a day suiting the convenience of the board not more than six months subsequent to the presentation of said application. Said examination shall be oral, practical, and clinical in nature, and full consideration shall be given to the duration and character of the applicant's practice. If after such last-mentioned examination it is determined by a majority vote of the said medical examiners conducting said examination, that such applicant is so qualified to practice medicine and surgery within the state of California, and that his reputation and standing in the community in which he has previously practiced is good, the said applicant shall be entitled to receive a "physician and surgeon certificate." Each applicant on making such application shall pay to the secretary of the board, a fee of one hundred dollars, which shall be paid to the treasurer of the board, of which sum ninety dollars shall be returned to him should he not receive a certificate hereunder. All certificates issued pursuant to this section shall be marked across the face thereof "reciprocity certificate." Any person granted a "reciprocity certificate" to practice any system or mode for treating the sick or afflicted recognized by this or any preceding medical practice act in this state, such certificates not being of equal scope with the certificates known and designated as the "physician and surgeon certificate," will not be eligible for the "physician and surgeon certificate" as designated in this act without a full and complete compliance with the terms and provisions of sections nine, ten and eleven hereof.

§ 14. Refusal of certificate for unprofessional conduct. Refusal to obey subpoena. Revocation of certificate for unprofessional conduct. Said board must refuse a certificate to any applicant guilty of unprofessional conduct. On the filing with the secretary of a sworn complaint, charging the applicant with having been guilty of unprofessional conduct, the secretary must forthwith issue a citation, under the seal of the board, and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant when and where the charges of said unprofessional conduct will be heard, and that the applicant shall file his written answer, under oath, within twenty days next after the service on him of said citation or that default will be taken against him and his application for a certificate refused. The attendance of witnesses at such hearing may be compelled by subpoenas issued by the secretary of the board under its seal. Said citation and said subpoenas shall be served in accordance with the statutes of this state then in force as to the service of citation and subpoenas generally, and all the provisions of the stat-

utes of this state then in force relating to subpoenas and to citations are hereby made applicable to the subpoenas and citations provided for herein. Upon the secretary's certifying to the fact of refusal of any person to obey a subpoena or citation to the superior court of the county in which the service was had, said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempts for disobedience of process of the court, and should said court find that the subpoena or citation has been legally served, and that the party so served has willfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct, arising under this act, depositions of witnesses may be taken, the same as in civil cases and all the provisions of the statutes of this state then in force as to the taking of depositions are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, within twenty days after service on him of said citation, or within such further time as the board may allow, and the charges on their face shall be deemed sufficient by the board, default shall be entered against him, and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, and to that end shall hear such proper evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. Whenever any holder of a certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and the said unprofessional conduct has been brought to the attention of the board granting said certificate, in the manner hereinafter provided or whenever a certificate has been procured by fraud or misrepresentation, or issued by mistake, or the person holding such certificate is found to be practicing contrary to the provisions thereof and of this act, it shall be the duty of said board either to suspend the right of the holder of said certificate to practice for a period not exceeding one year, or in its discretion to revoke his certificate. In the event of such suspension, the holder of such certificate shall not be entitled to practice thereunder during the term of suspension; but, upon the expiration of the term of said suspension, he shall be reinstated by the board and shall be entitled to resume his practice, unless it shall be established to the satisfaction of the board that said person so suspended from practice, has, during the term of such suspension, practiced in the state of California, in which event the board shall revoke the certificate of such person. No such suspension or revocation shall be made unless such holder is cited to appear and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. Said secretary in all cases of suspension or revocation shall enter on his register the fact of such suspension or revocation, as the case may be, and shall certify the fact of such suspension or revocation under the seal of the board, to the county clerk of the counties in which the certificates of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person, the following: "The holder of this certificate

was on the —— day of —— suspended for ——," or, "This certificate was revoked on the —— day of ——," as the case may be, giving the day, month and year of such revocation or length of suspension, as the case may be, in accordance with said certification to him by said secretary. The record of such suspension or revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of said board in the matter of said suspension or revocation. The words "unprofessional conduct" as used in this act, are hereby declared to mean:

First—The procuring or aiding or abetting or attempting or agreeing or offering to procure a criminal abortion.

Second—The willfully betraying of a professional secret.

Third—All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, and so be harmful or injurious to public morals or safety.

Fourth—All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed.

Fifth—Conviction of any offense involving moral turpitude in which case the record of such conviction shall be conclusive evidence.

Sixth—Habitual intemperance or excessive use of cocaine, opium, morphine, codeine, heroin, alpha eucaine, beta eucaine, novocaine or chloral hydrate or any of the salts, derivatives or compounds of the foregoing substances or the prescribing, selling, furnishing, giving away or offering to prescribe, sell, furnish, or give away such substances to a habitue who is not under the direct personal and continuous treatment and care of the physician for the cure of the above-mentioned drugs.

Seventh—The personation of another licensed practitioner or permitting or allowing another person to use his certificate in the practice of any system or mode of treating the sick or afflicted.

Eighth—The use, by the holder of any certificate, in any sign or advertisement in connection with his said practice or in any advertisement or announcement of his practice, of any fictitious name, or any name other than his own.

Ninth—The use by the holder of a "drugless practitioner certificate" of drugs or what are known as medicinal preparations, in or upon any human being, or the severing or penetrating by the holder of said "drugless practitioner certificate" of the tissues of any human being in the treatment of any disease, injury, deformity, or other physical or mental condition of such human being, excepting the severing of the umbilical cord.

Tenth—Advertising, announcing or stating, directly, indirectly, or in substance, by any sign, card, newspaper, advertisement or other written or printed sign or advertisement, that the holder of such certificate or any other person, company, or association by which he is employed or in whose service he is, will cure or attempt to cure, or will treat, any venereal disease, or will cure or attempt to cure or treat any person or persons for any sexual disease, for lost manhood, sexual weakness, or sexual disorder or any disease of the sexual organs; or being employed by, or being in the service of, any person, firm, association, or corporation so advertising, announcing or stating.

Eleventh—The use by the holder of any certificate of any letter, letters, word, words, or term or terms used either as prefix or affix or suffix indicating that such certificate holder is entitled to practice a system or mode of treating the sick or afflicted for which he was not licensed in the state of California.

Twelfth—The employment of "cappers" or "steerers" or other persons in procuring practice for a practitioner for a system or mode of treating the sick or afflicted provided for in this act.

Thirteenth—The certificate issued herein for the practice of midwifery may be revoked when it appears to the satisfaction of the board that in any case or cases that the licentiate may have treated, that due caution and circumspection was not used or that the holder of said certificate in its treatment of any case or cases had not used proper aseptic and antiseptic precautions.

Fourteenth—The certificate to practice midwifery herein may be revoked upon conviction for the violation of any health statute, order or ordinance or for the neglect or refusal to comply with the health rules and regulations of any state, county, city and county, city or township.

Fifteenth—The certificate issued herein for the practice of midwifery may be revoked for the treatment by any midwife in any case of labor in which case there is a complicated vertex presentation in which said licentiate did not call or attempt to call a licentiate licensed to practice a system including the practice of obstetrics under this act or any preceding medical practice act in this state.

Sixteenth—The certificate issued herein for the practice of midwifery may be revoked for a failure to refer to a licentiate under this act or any preceding act in the state of California licensed to practice a system including obstetrics, a case which during pregnancy has, or develops any of the following conditions: a contracted pelvis or other deformity that will interfere with labor; bleeding from the uterus; swelling of the face and hands; excessive vomiting; persistent headache; dimness of vision; convulsions; or for failure to call or summons a physician if any of the following conditions exist or develop at the beginning of or during labor: Complicated presentation of a vertex (head); convulsions, excessive bleeding; prolapse of the cord; a swelling or tumor that obstructs the birth of the child; signs of exhaustion or collapse; unduly prolonged labor; or the failure to refer to a licentiate in this act or any preceding act in the state of California licensed to practice a system including obstetrics, a case, which during the lying-in period, develops the following conditions: Convulsions; excessive bleeding; foul smelling discharge (lochia); persistent rise of temperature to one hundred one degrees Fahrenheit for twenty-four hours; swelling and redness of the breasts; severe chill (rigor) with rise of temperature; inability to nurse the child; or for a failure to refer to a licentiate under this act or any preceding act in the state of California licensed to practice a system including obstetrics, a case where the child has or develops any of the following conditions: Deformities or malformations or injuries; inability to suckle or nurse; inflammation around or discharge from the navel; swelling and redness of the eyelids with a discharge of pus from the eyes

(opthalmia neonatorum); bleeding from the mouth, navel or bowels; inability to urinate.

Seventeenth—The certificate issued herein for the practice of midwifery may be revoked for the treatment by the said midwife licentiate known as the introduction of the hand into the vagina or uterus to remove placenta or membranes.

Eighteenth—The certificate issued herein for the practice of midwifery may be revoked for the failure to have the following equipment (in each case): Nail brush; wooden or bone nail cleaner; jar of green or soft castile soap; rubber gloves; tube of sterile vaseline; clinical thermometer; agate or glass douche reservoir; two rounded vaginal douche nozzles; two rectal nozzles, large and small; one soft rubber catheter; blunt scissors for cutting cord; either lysol, carbolic acid or bichloride of mercury tablets; boric acid powder; one per cent solution of nitrate of silver; medicine dropper; narrow tape or soft twine for tying cord; absorbent cotton (preferably in one-quarter pound packages); no other instruments are to be used, owned or possessed by a midwife. [Amendment approved April 11, 1917; Stats. 1917, p. 109.]

§ 15. **Certificates to be recorded.** Every person holding a certificate under the laws of this state authorizing him to practice any system or mode of treating the sick or afflicted in this state must have it recorded in the office of the county clerk of the county or counties in which the holder of said certificate is practicing his profession, and the fact of such recordation shall be indorsed on the certificate by the county clerk recording the same. Any person holding a certificate as aforesaid, who shall practice or attempt to practice any system or mode of treating the sick or afflicted in this state, without having first filed his certificate with the county clerk, as herein provided, shall be deemed guilty of a misdemeanor and shall be punished as hereinafter designated in this act. [Amendment approved April 11, 1917; Stats. 1917, p. 113.]

§ 17. **Practice without license. Penalty.** Any person who shall practice or attempt to practice, or who advertises or holds himself out as practicing, any system or mode of treating the sick or afflicted in this state, or who shall diagnose, treat, operate for, or prescribe for, any disease, injury, deformity, or other mental or physical condition of any person, without having at the time of so doing a valid unrevoked certicate as provided in this act, or who shall in any sign or in any advertisement use the word "doctor," the letters or prefix "Dr.," the letters "M.D.," or any other term or letters indicating or implying that he is a doctor, physician, surgeon or practitioner, under the terms of this or any other act, or that he is entitled to practice hereunder, or under any other law without having at the time of so doing a valid unrevoked certificate as provided in this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as designated in this act. [Amendment approved April 11, 1917; Stats. 1917, p. 114.]

§ 18. **Penalty for selling certificate. Altering of certificate. Practice under false name. Records of associates of practitioner.** Any person, or any member of any firm, or official of any company, association, organization or corporation shall be guilty of a misdemeanor and upon

conviction thereof shall be punishable as designated in this act, who, individually or in his official capacity, shall himself sell or barter, or offer to sell or barter, any certificate authorized to be granted hereunder, or any diploma, affidavit, transcript, certificate or any other evidence required in this act for use in connection with the granting of certificates or diplomas, or who shall purchase or procure the same either directly or indirectly with intent that the same shall be fraudulently used, or who shall with fraudulent intent alter any diploma, certificate, transcript, affidavit, or any other evidence to be used in obtaining a diploma or certificate required hereunder or who shall use or attempt to use fraudulently any certificate, transcript, affidavit, or diploma, whether the same be genuine or false, or who shall practice or attempt to practice any system or treatment of the sick or afflicted, under a false or assumed name, or any name other than that prescribed by the board of medical examiners of the state of California on its certificate issued to such person authorizing him to administer such treatment, or who shall assume any degree or title not conferred upon him in the manner and by the authority recognized in this act, with intent to represent falsely that he has received such degree or title, or who shall willfully make any false statement on any application for examination, license or registration under this act, or who shall engage in the treatment of the sick or afflicted without causing to be displayed in a conspicuous manner and in a conspicuous place in his office the name of each and every person who is associated with or employed by him in the practice of medicine and surgery or other treatment of the sick or afflicted, or who shall, within ten days after demand made by the secretary of the board, fail to furnish to said board the name and address of all such persons associated with or employed by him or by any company or association with which he is or has been connected at any time within sixty days prior to said notice, together with a sworn statement showing under and by what license or authority said person or persons, or said employee or employees, is or are, or has or have been practicing medicine or surgery, or any other system of treatment of the sick or afflicted. It shall be the duty of any person or persons upon whom the board of medical examiners may make a demand for the name or names and address or addresses of a person or persons associated or employed by him or them to make affidavit that there are no such person or persons associated or employed by him or them, if such be the fact; provided, that such affidavit shall not be used as evidence against said person or employee in any proceedings under this action. [Amendment approved April 11, 1917; Stats. 1917, p. 114.]

§ 24. **Title of act. Penalties. Disposition of fines.** This act when referred to, cited or amended may be designated as the state medical practice act, and for a violation of any provision of this act, the said violator shall be guilty of a misdemeanor, unless otherwise specifically provided in this act, and shall be punished by a fine of not less than one hundred dollars nor more than six hundred dollars or by imprisonment for a term of not less than sixty days nor more than one hundred eighty days or by both such fine and imprisonment. The fines or forfeitures of bail in any case wherein any person is charged with a viola-

tion of the provisions of this act shall be paid upon the collection by the proper officer of the court seventy-five per cent thereof to the state treasurer to be deposited to the credit of the contingent fund of the board of medical examiners and such payment to said treasurer shall be made without placing such fine or forfeiture of bail in any special or contingent or general fund of any county, city and county, city, or township. The balance or twenty-five per cent of such fines or forfeitures of bail shall be paid to the county wherein the case is pending. [New section added April 11, 1917; Stats. 1917, p. 115.]

TITLE 343.

MILITARY COMPANIES

ACT 2203.

An act creating a state defense guard, providing for its control and compensation, prescribing its duties and making an appropriation therefor.

[Approved May 28, 1917. Stats. 1917, p. 1279. In effect immediately.]

§ 1. **State defense guard created.** There is hereby created a state defense guard to be composed of such number of companies, not exceeding ten, each of which shall be composed of not less than twenty-five nor more than one hundred men as the governor shall, in either case, determine. The governor, as soon as he deems it necessary for the public welfare, shall appoint one captain, one lieutenant, and such subordinate officers for each company of such state defense guard as he may authorize to be enrolled, shall designate the number of men to constitute each such company, and may, within the limit above specified, thereafter, in his discretion, increase or decrease the number of such companies and of the membership thereof.

§ 2. **Membership. Examination. Oath.** Membership in the state defense guard shall be confined to male citizens of the United States of not less than thirty years, nor more than fifty years of age. Each applicant for appointment in the state defense guard must pass an examination as to his physical and mental qualifications, such examination to be held by the adjutant-general, based upon standards to be established by him. Appointments under this act shall be exempt from the provisions of the civil service act. Before entering upon the discharge of his duties, each member of the state defense guard shall take the following oath:

"I do solemnly swear that I will support the constitution and laws of the United States and the state of California and strictly and faithfully perform the duties of member of the state defense guard of the state of California to the best of my ability."

§ 3. **Constituted peace officers. Duties.** The members of the state defense guard are hereby constituted peace officers and invested with all powers conferred by law upon peace officers in this state, and shall have and exercise such powers in any part of this state. It shall be the duty of all members of the state defense guard strictly to enforce the

laws of this state, and to perform such duties as the governor shall direct.

§ 4. **Exclusive control of governor.** The state defense guard shall be subject to the exclusive control and direction of the governor, or of the adjutant-general acting under the direction of the governor. The governor may in his discretion at any time demote, suspend or discharge any member of the state defense guard, and a suspended member shall not be entitled to salary during the period of such suspension.

§ 5. **Adjutant-general ex-officio superintendent.** The adjutant-general of the state shall be ex-officio superintendent of the state defense guard, and shall keep all files and records pertaining thereto and shall make rules and regulations for its government and control. He shall prescribe suitable uniforms, arms, equipment and means of transportation and, with the approval of the state board of control, shall purchase so much and such articles thereof as he may deem necessary to supplement any part of such equipment to be provided, at their individual expense, by the members of such state defense guard. The adjutant-general shall perform such other duties in connection with the state defense guard as the governor directs.

§ 6. **Salaries.** The salary of the members of the state defense guard shall be as follows: Each captain, one thousand six hundred dollars per annum; each lieutenant, one thousand three hundred fifty dollars per annum; each sergeant, one thousand two hundred twenty dollars per annum; corporals and other members, one thousand eighty dollars per annum. The salary of all members of the state defense guard shall be paid at the time and in the same manner as state officers.

§ 7. **Penalty for refusal to pay order.** Any member of the state defense guard willfully failing or refusing to obey any lawful order or direction of the governor shall be guilty of a misdemeanor, and, upon conviction, thereof, shall be punished by imprisonment in the county jail not less than one month nor more than six months.

§ 8. **Appropriation.** For the purposes of this act the sum of one million dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated. Claims against such appropriation shall be approved by the adjutant-general and, when so approved, shall be audited and paid in the manner provided by law.

§ 9. **In effect when.** This act shall be in force and effect only during the existence of war between the United States and any foreign nation.

§ 10. **Not used in strikes.** The state defense guard shall not be used in connection with strikes or other industrial disputes.

§ 11. **Urgency measure.** A state of war now existing between the United States and the imperial German government, this act is declared to be an urgency measure necessary for the immediate preservation of the public peace and safety and shall take effect upon its approval by the governor.

TITLE 345.

MINES AND MINING.

ACT 2213b.

An act establishing and creating a department of the state mining bureau for the protection of the natural resources of petroleum and gas from waste and destruction through improper operations in production; providing for the appointment of a state oil and gas supervisor; prescribing his duties and powers; fixing his compensation; providing for the appointment of deputies and employees; providing for their duties and compensation; providing for the inspection of petroleum and gas wells; requiring all persons operating petroleum and gas wells to make certain reports; providing procedure for arbitration of departmental rulings; creating a fund for the purposes of the act; providing for assessment of charges to be paid by operators and providing for the collection thereof; and making an appropriation for the purposes of this act.

[Approved June 10, 1915. Stats. 1915, p. 1404.]

Amended June 1, 1917; Stats. 1917, p. 1586.

The amendment of 1917 follows:

§ 2. **State mineralogist's compensation. Secretary's added compensation. Supervisor's salary.** For his services in the general supervision of said department, the state mineralogist shall receive as compensation one thousand four hundred dollars annually which shall be in addition to his compensation fixed in section two of the act of June 16, 1913, relating to the state mining bureau.

The secretary of the state mining bureau shall receive for his services in connection with the department of petroleum and gas, a sum not to exceed six hundred dollars annually, which sum shall be in addition to his compensation paid from the funds of the state mining bureau.

The supervisor shall receive an annual salary of six thousand dollars, and shall be allowed his necessary traveling expenses. The state mineralogist may, at the request of the state oil and gas supervisor, and subject to the civil service laws of the state, appoint one chief clerk at a salary of not to exceed one thousand eight hundred dollars annually; twelve office assistants or stenographers each at a salary of not to exceed one thousand two hundred dollars annually; four geological draftsmen each at a salary not to exceed one thousand five hundred dollars annually; four petroleum engineers each at a salary not to exceed two thousand four hundred dollars annually; twelve inspectors each at a salary not to exceed one thousand eight hundred dollars annually.

The additional salary herein authorized to be paid to the state mineralogist and the secretary of the state mining bureau and the salaries of the supervisor and of the deputies, clerks, stenographers, assistants and other employees shall be paid out of the funds hereinafter provided for at the times and in the manner that salaries of other state officers and employees are paid. [Amendment approved June 1, 1917; Stats. 1917, p. 1586.]

§ 4. **Deputies.** It shall be the duty of the state oil and gas supervisor to appoint one chief deputy and five field deputies, one for each

of the districts hereinafter provided for and prescribe their duties and fix their compensation, which shall not exceed four thousand dollars per annum for the chief deputy and not to exceed three thousand six hundred dollars per annum for each field deputy. Such deputies shall serve during the pleasure of the supervisor. He shall also employ an attorney at a compensation not exceeding three thousand dollars per year, payable out of said fund, who shall also be attorney for each district board of commissioners; such commissioners may allow additional compensation to such attorney in actual litigation. The supervisor, the deputies and the attorney shall not be subject to the civil service act. [Amendment approved June 1, 1917; Stats. 1917, p. 1587.]

§ 5. **Qualifications.** Each deputy appointed by the supervisor shall be a competent engineer or geologist, experienced in the development and production of petroleum. At the time said deputy is appointed, notice of such appointment shall be transmitted in writing to the board of commissioners of the district for which said deputy is appointed. Said notice shall be given either personally or by mailing a notice of said appointment to the postoffice address of each commissioner. No appointment shall be final until a period of ten days shall have elapsed from the mailing of said notice to said commissioners. In the event of the majority of the commissioners notify said oil and gas supervisor in writing before the expiration of ten days from the date of said notice that the appointment of said field deputy is disapproved by them, then and in that event said field deputy shall not be appointed but said oil and gas supervisor must appoint some other individual as in this section provided. Each field deputy shall maintain an office in the district for which he is appointed, convenient of access to the petroleum and gas operators therein. The office shall be open and the deputy shall be present at certain specified times which shall be posted at such office. [Amendment approved June 1, 1917; Stats. 1917, p. 1587.]

§ 7. **Records open to inspection.** The records of any and all operators, when filed with the deputy supervisor as hereinafter provided, shall be open to inspection to those authorized in writing by such operators, to the state officers, and to the board of commissioners hereinafter provided for. Such records shall in no case other than those hereinafter and in this section provided, be available as evidence in court proceedings and no officer or employee or member of any board of commissioners shall be allowed to give testimony as to the contents of said records, except at such court proceedings as are hereinafter provided for in the review of the decision of the state oil and gas supervisor, or a board of commissioners, or in any proceedings initiated for the enforcement of an order of the supervisor, or any proceeding initiated for the enforcement of a lien created by this act, or any proceeding for the collection of the assessment levied under and pursuant to the provisions of this act or in criminal proceedings arising out of such records, or the statements upon which they are based. [Amendment approved June 1, 1917; Stats. 1917, p. 1588.]

§ 8. **Tests and remedial work.** It shall be the duty of the supervisor to order such tests or remedial work as in his judgment are necessary

to protect the petroleum and gas deposits from damage by underground water, to the best interests of the neighboring property owners, and the public at large.

The order shall be in written form, signed by the supervisor, and shall be served upon the owner of the well, or the local agent appointed by such owner, either personally or by mailing a copy of said order to the postoffice address given at the time the local agent is designated, or if no such local agent has been designated, by mailing a copy of said order to the last known postoffice address of said owner, or if the owner be unknown by posting a copy of said order in a conspicuous place upon the property, and publishing the same in some newspaper of general circulation throughout the county in which said well is located, once a week for two successive weeks.

Said order shall specify the condition sought to be remedied and the work necessary to protect such deposits from damage from underground waters. For this purpose each operator or owner shall designate an agent, giving his postoffice address, who resides within the county where the well or wells are located, upon whom all orders and notices provided for in this act may be served. [Amendment approved June 1, 1917; Stats. 1917, p. 1588.]

§ 9. **Owner's objections.** The well owner or his local agent may within ten days from the date of service of any order from the supervisor, file with the supervisor or his deputy in the district where the property is located, a statement that the supervisor's order is not acceptable and that appeal from said order is taken to the board of commissioners. Such appeal shall operate as a stay of any order issued under or pursuant to the provisions of this act. [Amendment approved June 1, 1917; Stats. 1917, p. 1588.]

§ 10. **State divided into five districts. District oil and gas commissioners elected. Elections. Term of office. Eligibility. Chairman. Deputies. Expenses. Recall. Procedure. Vacancies. Advice from supervisors.** For the purposes of this act the state shall be divided into five districts, as follows:

District No. 1, including the counties of Los Angeles, Riverside, Orange, San Diego, Imperial and San Bernardino.

District No. 2, the county of Ventura.

District No. 3, including the counties of Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, San Benito, Santa Clara, Contra Costa, San Mateo, Alameda and San Francisco.

District No. 4, including the counties of Tulare, Inyo and Kern.

District No. 5, including the counties of Fresno, Madera, Kings, Mono, Mariposa, Merced and all other counties in California not included in any of said other districts.

There shall be elected at the times and in the manner hereinafter provided, district oil and gas commissioners for each such district, as follows:

For district number one, five; for district number two, five; for district number three, five; for district number four, seven; for district number five, five.

Said district oil and gas commissioners shall be elected by vote of the companies, individuals, copartnerships or associations, who shall have been assessed, and whose names shall appear upon the last record of assessments (next preceding such election) for and on account of the fund in this act provided to be raised, within said districts respectively, said vote to be taken at a meeting to be held in each of said districts respectively, and on the third Monday in September of each year, such place and the time and details of such meeting to be fixed by the state oil and gas supervisor, and of which meeting at least two weeks previous notice shall have been given by letter addressed to each of said persons, corporations, copartnerships and associations, entitled to vote as aforesaid, at his or its postoffice address or principal place of business.

At said meeting each of those entitled to vote as herein provided may be represented by one person holding the written authority of such voter to act for him at such meeting.

At said meeting each voter shall be entitled to one vote for each member of the board of district oil and gas commissioners who are required to be selected for such district. In addition thereto, in each district in which five commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which said voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the two commissioners who are elected for three years; and in each district in which seven commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which said voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the three commissioners who are elected for three years. In all subsequent elections the qualification of voters in the election of a commissioner shall be the same as in the election of the commissioner whose successor in office is being elected.

Said meeting shall select by ballot, by a majority vote of the votes represented, the number of persons as hereinbefore specified to act as district oil and gas commissioners for such district.

In any district entitled to seven commissioners, two shall be chosen for a term of one year, two for two years and three for three years. In any district entitled to five commissioners, one shall be chosen for a term of one year, two for two years and two for three years.

The chairman and secretary of the meeting shall issue a written certificate to the state oil and gas supervisor, setting forth the result of such election, and the name and address of each of the persons elected at said meeting as the district oil and gas commissioners for said district and the term for which each has been elected. No person shall be eligible as a district oil and gas commissioner who is not a resident of the district for which he is elected, nor shall any person be eligible for such position who is not actually engaged in the business of oil or gas development or production, within the district.

Upon receipt of the certificate so made by the chairman and secretary of any such meeting, the state oil and gas supervisor shall issue a certificate of election to the respective persons in said certificate named as the district oil and gas commissioners for said district, and for the

periods of one, two or three years from and after the first Monday in October, 1917, as shall be shown in such certificate, and until their respective successors shall have been elected.

Within thirty days after their appointment by the state oil and gas supervisor, the district oil and gas commissioners for each district shall meet at a time and place within the district to be designated by the state oil and gas supervisor, and shall thereupon select one of the number as chairman.

The deputy supervisor of the district shall be ex-officio secretary of said board, and shall keep a record of its proceedings, and his office shall be the office of the commissioners.

Said commissioners shall serve without compensation, except their necessary traveling expenses. The traveling expenses of said commissioners and all actual expenses incurred by or under order of said commissioners in the hearing and determination and carrying out of orders appealed to them, shall be certified to said state supervisor, and when audited by him and by the state board of control shall be paid from said fund.

On the third Tuesday in September of each year at an hour and places in said respective districts to be fixed by the state oil and gas supervisor, and of which notices shall have been given as hereinbefore specified, the successor of each of the district oil and gas commissioners whose term of appointment shall expire that year, shall be elected and qualified in the manner and subject to the provisions hereinbefore set forth, and the term of each shall be for a period of three years from and after the first Monday in October next succeeding.

All, either or any of the district oil and gas commissioners elected in any district may be recalled by the votes of a majority of the qualified votes of the district entitled to vote as to such commissioners respectively. In case there shall be filed in the office of the state oil and gas supervisor, a written petition, signed by not less than forty per cent of those entitled to vote as to the election of any commissioner or commissioners, asking the recall of such commissioner or commissioners, said state oil and gas supervisor shall, within ten days thereafter, order and give notice of a special election in such district to fill the office or offices of the commissioner or commissioners named in said petition for recall; and shall cause notice to be given of said election in the manner, and for the time required for regular election, and said notice shall fix the time and place of such election.

At such election, the commissioner or commissioners named in such petition for recall shall be voted upon as though candidates for election for the unexpired portion of the term for which they, respectively, were originally elected, and any other candidate or candidates may, at the same time, be voted upon. It shall require a majority of all the qualified votes entitled to vote for such commissioners, respectively, to constitute an election. In case less than a majority of all qualified votes shall be cast for any candidate, said recall shall be deemed to have failed as to the commissioner concerning whose office such vote was taken; and in case such commissioner himself shall receive a majority of the votes, said recall shall be deemed to have failed, and in either of such cases, such commissioner shall continue to serve until the ex-

piration of his term as though no such special election had been held. But in case any person other than such commissioner shall receive a majority of the votes for such unexpired term, then such recall shall become effective, and the office of the commissioner so recalled shall be vacant and upon written certificate of such election being filed with the state oil and gas supervisor, the person so chosen and elected for such unexpired term shall become the successor of the commissioner so recalled, and a certificate of his election for such unexpired term shall be issued and transmitted to him by the state oil and gas supervisor. And like proceedings shall be had in case more than one commissioner shall be included in said petition for recall.

In all recall elections, qualifications for voters and the number of votes which they will be entitled to cast shall be the same as they respectively were in the election of the commissioner as to whom such recall election is being held.

In case of vacancy caused by the death, resignation or removal from district or ceasing to be engaged in the business of development or production of oil or gas in the district as to the office of any commissioner, such vacancy shall be filled until the next annual election by the state oil and gas supervisor, who shall appoint to fill such vacancy an eligible person, nominated in writing by the remaining commissioners of such district.

Upon any subject in which any commissioner is personally interested, or upon which any corporation, copartnership, association or individual by whom he is employed is directly interested as a party, such commissioner shall not be entitled to sit or vote.

The board of commissioners shall be entitled to call upon the supervisor for advice, and written report upon any matter referred to the board of commissioners, and the supervisor shall be entitled to call meetings of the commissioners at the office of the field supervisor, upon five days' written notice, to obtain their written advice upon any matters relating to his work within their district. [Amendment approved June 1, 1917; Stats. 1917, p. 1589.]

§ 11. **Investigation upon complaint.** Upon receipt by the supervisor or deputy supervisor of a written complaint specifically setting forth the condition complained against, signed by a person, firm, corporation or association owning land or operating wells within a radius of one mile of any well or group of wells complained against, or upon the written complaint specifically setting forth the condition complained against, signed by any one of the board of commissioners for the district in which said well or group of wells complained against is situated, the supervisor must make an investigation of said well or wells and render a written report stating the work required to repair the damage complained of, or stating that no work is required. A copy of said order must be delivered to the complainant, or if more than one, each of said complainants, and if the supervisor order the damage repaired, a copy of such order shall be delivered to each of the owners, operators or agents having in charge the well or wells upon which the work is to be done. Said order shall contain a statement of the conditions sought to be remedied or repaired and a statement of the work required by the

supervisor to repair such condition. Service of such copies shall be made by mailing to such persons at the postoffice address given. [Amendment approved June 1, 1917; Stats. 1917, p. 1592.]

§ 12. Oaths and subpoenas. Depositions. Refusal to comply with order, etc., misdemeanor. In any proceeding before the board of commissioners as herein provided, or in any other proceeding or proceedings instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this act, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly drilled, operated, maintained or conducted, the supervisor and the chairman of the board of commissioners shall have the power to administer oaths and may apply to a judge of the superior court of the state of California, in and for the county in which said proceeding or investigation is pending, for a subpoena for witnesses to attend at said proceeding or investigation. Upon said application of said supervisor or said chairman of said board of commissioners, said judge of said superior court must issue a subpoena directing said witness to attend said proceeding or investigation; provided, however, that no person shall be required to attend upon such proceeding, either with or without such books, papers, documents or accounts unless residing within the same county or within thirty miles of the place of attendance. But the supervisor or the chairman of the board of commissioners may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state, and to that end may, upon application to a judge of the superior court of the county within which said proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of books, papers and documents at such places as he may designate within the limits hereinbefore prescribed. Witnesses shall be entitled to receive the fees and mileage fixed by law in civil causes, payable from the fund hereinafter created. In case of failure or neglect on the part of any person to comply with any order of the supervisor as hereinbefore provided, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, or upon refusal or neglect to appear and attend at any proceeding or hearing on the day specified, after having received a written notice of not less than ten days prior to such proceeding or hearing, or upon his failure, refusal or neglect to produce books, papers or documents as demanded in said order or subpoena upon such day, such failure, refusal or neglect shall constitute a misdemeanor and each day's further failure, refusal or neglect shall be and be deemed to be a separate and distinct offense, and it is hereby made the duty of the district attorney of the county in which said proceeding, hearing or investigation is to be held, to prosecute all persons guilty of violating this section by continuous prosecution until such person appears or attends or produces such books, papers or documents or complies with said subpoena or order of the supervisor or chairman of the board of commissioners. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 13. **Decision of board.** Within ten days after hearing the evidence, the board of commissioners must make a written decision with respect to the order appealed from and in case the same is affirmed or modified, shall retain jurisdiction thereof until such time as the work ordered to be done by such order shall be finally completed. This written decision shall be served upon the owner or his agent and shall supersede the previous order of the supervisor. In case no written decision be made by said board of commissioners within thirty days after the date of notice by the supervisor as provided in section ten hereof, the order of the supervisor shall be effective and subject only to review by writ of certiorari from the superior court as provided in section fourteen hereof. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 14. **Commencement of work. Review of decision. Extent of review. Lien enforced.** On or before thirty days after the date of serving an order of the supervisor, provided for in section eight hereof, or in case of appeal to the board of commissioners, on or before thirty days after date of serving the decision of the board, as provided in sections 12 and 13 hereof, or in the event review be taken of the order of the board of commissioners within ten days after affirmance of such order, the owner shall commence in good faith the work ordered and continue until completion. If the work has not been so commenced and continued to completion, the supervisor shall appoint agents as he deems necessary who shall enter the premises and perform the work. Accurate account of such expenditures shall be kept and the amount paid from the fund hereinafter created upon the warrant of the state controller. Any amount so expended shall constitute a lien against the property upon which the work is done. The decision of the board of commissioners in such case may be reviewed by writ of certiorari from the superior court of the county in which the district is situated, if taken within ten days after the service of the order upon said owner, operator or agent of said owner or operator as herein provided; or within ten days after decision by the board of commissioners upon petitions by the supervisor. Such writ shall be made returnable not later than ten days after the issuance thereof and shall direct the district board of oil and gas commissioners to certify their record in the cause to such court. On the return day the cause shall be heard by the court unless for good cause the same be continued, but no continuance shall be permitted for a longer period than thirty days. No new or additional evidence shall be introduced in the court before the cause shall be heard upon the record of the district board of oil and gas commissioners. The review shall not be extended further than to determine whether or not—

1. The commission acted without or in excess of its jurisdiction.
2. The order, decision or award was procured by fraud.
3. The order, decision, rule or regulation is unreasonable.
4. The order, decision, regulation or award is clearly unsupported by the evidence.

If no review be taken within ten days, or if taken in case the decision of the board is affirmed, the lien upon the property shall be enforced in the same manner as the other liens on real property are enforced, and shall first be enforced against the owner of the well, against the operator

and against the personal property and fixtures used in the construction or operation thereof, and then if there be any deficiency against the land upon which the work is done, upon the request of the supervisor, the state controller must, in the manner provided in section forty-four of this act, bring an action for the enforcement of said lien. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 15. **Wells to be cased. Shut-off test.** It shall be the duty of the owner of any well now drilled, or that may be drilled in the state of California, on lands producing or reasonably presumed to contain petroleum or gas, to properly case such well or wells with metal casing, in accordance with methods approved by the supervisor, and to use every effort and endeavor in accordance with the most approved methods to effectually shut off all water overlying or underlying the oil or gas-bearing strata, and to effectually prevent any water from penetrating such oil or gas-bearing strata.

Whenever it appears to the supervisor that any water is penetrating oil or gas-bearing strata, he may order a test of water shut off and designate a day upon which the same shall be held. Said order shall be in written form and served upon the owner of said well at least ten days prior to the day designated in said order as the day upon which said shut-off test shall be held. Upon the receipt of such order it shall be the duty of the owner to hold said test in the manner and at the time prescribed in said order. [Amendment approved June 1, 1917; Stats 1917, p. 1594.]

§ 16. **Abandonment of well.** It shall be the duty of the owner of any well referred to in this act, before abandoning the same, or before removing the rig, derrick or other operating structure therefrom, or removing any portion of the casing therefrom, to use every effort and endeavor in accordance with methods approved by the supervisor, to shut off and exclude all water from entering oil-bearing strata encountered in the well. Before any well is abandoned the owner shall give written notice to the supervisor, or his local deputy, of his intention to abandon such well and of his intention to remove the derrick or any portion of the casing from such well and the date upon which such work of abandonment or removal shall begin. The notice shall be given to the supervisor, or his local deputy, at least five days before such proposed abandonment or removal. The owner shall furnish the supervisor, or his deputy with such information as he may request showing the condition of the well and proposed method of abandonment or removal. The supervisor, or his deputy, shall before the proposed date of abandonment or removal, furnish the owner with a written order of approval of his proposal or a written order stating what work will be necessary before approval to abandon or remove will be given. If the supervisor shall fail within the specified time to give the owner a written order such failure shall be considered as an approval of the owner's proposal to abandon the well, or to remove the rig or casing therefrom. [Amendment approved June 1, 1917; Stats. 1917, p. 1596.]

§ 17. **Notice of intention to drill.** The owner or operator of any well referred to in this act shall, before commencing the work of drilling an

oil or gas well, file with the supervisor, or his local deputy, a written notice of intention to commence drilling. Such notice shall also contain the following information: (1) Statement of location and elevation above sea level of the floor of the proposed derrick and drill rig; (2) the number or other designation by which such well shall be known, which number or designation shall not be changed after filing the notice provided for in this section, without the written consent of the supervisor being obtained therefor; (3) the owner's or operator's estimate of the depth of the point at which water will be shut off, together with the method by which such shut-off is intended to be made and the size and weight of casing to be used; (4) the owner's or operator's estimate of the depth at which oil or gas producing sand or formation will be encountered.

After the completion of any well the provisions of this section shall also apply, as far as may be, to the deepening or redrilling of any well, or any operation involving the plugging of any well or any operations permanently altering in any manner the casing of any well; and provided, further, that the number or designation by which any well heretofore drilled has been known, shall not be changed without first obtaining a written consent of the supervisor. [Amendment approved June 1, 1917; Stats. 1917, p. 1596.]

§ 18. Drilling log. Prospect wells. It shall be the duty of the owner or operator of any well referred to in this act, to keep a careful and accurate log of the drilling of such well, such log to show the character and depth of the formation passed through or encountered in the drilling of such well, and particularly to show the location and depth of the water-bearing strata, together with the character of the water encountered from time to time (so far as ascertained) and to show at what point such water was shut off, if at all, and if not, to so state in such log, and show completely the amounts, kinds and size of casing used, and show the depth at which oil-bearing strata are encountered, the depth and character of same, and whether all water overlying and underlying such oil-bearing strata was successfully and permanently shut off so as to prevent the percolation or penetration into such oil-bearing strata; such log shall be kept in the local office of the owner or operator, and together with the tour reports of said owner or operator, shall be subject, during business hours, to the inspection of the supervisor, or any of this deputies, or any of the commissioners of the district, except in the case of a prospect well as hereinafter defined. Upon the completion of any well, or upon the suspension of operations upon any well, for a period of six months if it be a prospect well, or for thirty days, if it be in proven territory, a copy of said log in duplicate, and in such form as the supervisor may direct, shall be filed within ten days after such completion, or after the expiration of said thirty-day period with the field supervisor, and a like copy shall be filed upon the completion of any additional work in the deepening of any such well.

The state oil and gas supervisor shall determine and designate what wells are prospect wells within the meaning of this act and no reports shall be required from such prospect wells until six months after the completion thereof.

The owner or operator of any well drilled previous to the enactment of this act shall furnish to the supervisor or his deputy a complete

and correct log in duplicate and in such form as the supervisor may direct, or his deputy, of such well, so far as may be possible, together with a statement of the present condition of said well. [Amendment approved June 1, 1917; Stats. 1917, p. 1597.]

§ 19. **Notice of shut-off test.** It shall be the duty of the owner or operator of any well referred to in this act to notify the deputy supervisor of the time at which the owner or operator shall test the shut-off of water in any such well. Such notice shall be given at least five days before such test. The deputy supervisor or an inspector designated by the supervisor shall be present at such test and shall render a report in writing of the result thereof to the supervisor, a duplicate of which shall be delivered to the owner. If any test shall be unsatisfactory to the supervisor he shall so notify the owner or operator in said report and shall within five days after the completion of such test, order additional tests of such work as he deems necessary to properly shut off the water in such well and in such order shall designate a day upon which the owner or operator shall again test the shut-off of water in any such well, which day may, upon the application of the owner, be changed from time to time in the discretion of the deputy supervisor. [Amendment approved June 1, 1917; Stats. 1917, p. 1597.]

§ 20. **Statement of oil produced.** It shall be the duty of every person, association or corporation producing oil in the state of California, to file with the supervisor, at his request but not oftener than once in each month, a statement showing amount of oil produced during the period indicated from each well, together with its gravity and the amount of water produced from each well, estimated in accordance with methods approved by the supervisor, and the number of days during which fluid was produced from each well, the number of wells drilling, producing, idle or abandoned, owned or operated by said person, association or corporation; provided, that, upon request and satisfactory showing a longer interval may be fixed by the state oil and gas supervisor as to such reports in the case of any specific owner or operator.

This information shall be in such form as the supervisor may designate. [Amendment approved June 1, 1917; Stats. 1917, p. 1598.]

§ 21a. **Primary interest of state.** The charges hereinafter provided for are directed to be levied by the state of California as necessary in the exercise of its police power and to provide a means by which to supervise and protect deposits of petroleum and gas witin the state of California, in which deposits the people of the state of California are hereby declared to have a primary and supreme interest. [New section added June 1, 1917; Stats. 1917, p. 1598.]

§ 22. **Charges for support of department.** Charges levied, assessed and collected as hereinafter provided upon the properties of every person, firm, corporation or association operating any well or wells for the production of petroleum in this state, or operating any well or wells for the production of natural gas in this state which gas wells are situate on lands situate within two miles, as near as may be, of any petroleum or gas well the production of which is chargeable under this act, shall

be used exclusively for the support and maintenance of the department of petroleum and gas hereinbefore created, and shall be asssed and levied by the state mineralogist, and collected in the manner hereinafter provided. [Amendment approved June 1, 1917; Stats. 1917, p. 1598.]

§ 24. **Annual charge on gas.** Every person, firm, corporation or association operating any gas well or wells in this state shall annually pay a charge to the state treasurer based upon the amount of gas sold in the preceding calendar year, at a fixed rate per thousand cubic feet, at the times and in the manner hereinafter provided, based upon a verified report as herein provided. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 27. **Estimate of moneys required.** The state mineralogist shall annually, on or before the first Monday in March, acting in conjunction with the state board of control, make an estimate of the amount of moneys which shall be required to carry out the provisions of this act. At the time of making such estimate, the state mineralogist shall report to the state board of control the amount of money in the petroleum and gas fund on the day such estimate is made, less the amount of money necessary for the support of the department of petroleum and gas for the remainder of the fiscal year, and the amount of such estimate shall in no event exceed the difference between the amount thus determined as remaining in the petroleum and gas fund at the end of the fiscal year and the sum of one hundred fifty thousand dollars. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 31. **Penalty.** Any person, firm, corporation or association failing or refusing to make or furnish any report which may be required pursuant to the provisions of this act, or who willfully renders a false or fraudulent report, shall be guilty of a misdemeanor and subject to a fine of not less than three hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not exceeding six months, or both such fine and imprisonment for each such offense. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 33. **Determination of rate.** On or before the third Monday before the first Monday in July of each year, the state mineralogist shall determine the rate or rates which shall produce the sums necessary to be raised as provided in section twenty-seven of this act. Within the same time the said state mineralogist shall extend into the proper column of the record of assessments hereinafter provided for, the amount of charges due from each person, firm, corporation or association. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 36. **Notice of assessment published.** On the third Monday before the first Monday in July of each year the state mineralogist shall cause to be published a notice, one or more times, in a daily, or weekly, or semi-weekly newspaper of general circulation published in the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged

under and pursuant to the terms and provisions of this act, if one be published therein, otherwise in a newspaper of general circulation published in the county nearest to such county designated herein in which no such paper is published, that the assessment of property and levy of charges under and in pursuance of this act has been completed and that the records of assessments containing the charges due will be delivered to the state controller on the first Monday in July, and that if any person, firm, corporation or association is dissatisfied with the assessment made or charge fixed by the state mineralogist, he or it may, at any time before said first Monday in July, apply to said board of review, correction and equalization to have the same corrected in any particular. The said board shall have the power at any time before said first Monday in July to correct the record of assessments and may increase or decrease any assessment or charge therein if in its judgment the evidence presented or obtained warrants such action. Costs of such publication in any county shall be paid from the petroleum and gas fund; provided, however, that the omission to publish said notice as hereinbefore and in this section provided, shall not affect the validity of any assessment levied under or pursuant to the provisions of this act. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

§ 37. **Record of assessments and charges.** The state mineralogist must prepare each year a book in one or more volumes, to be called the "Record of assessments and charges for the petroleum and gas fund," in which must be entered, either in writing or printing, or both writing and printing, each assessment and levy or charge made by him upon the property provided to be assessed and charged under this act, describing the property assessed, and such assessments may be classified and entered in such separate parts of said record as said state mineralogist shall prescribe. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

§ 38. **Record delivered to controller.** On the first Monday in July the state mineralogist must deliver to the state controller the record of assessments and charges for the petroleum and gas fund, certified to by said state mineralogist, which certificate shall be substantially as follows: " I, ——, state mineralogist, do hereby certify that between the first Monday in March and the first Monday in July, 19—, made diligent inquiry and examination to ascertain all property and persons, firms, corporations and associations subject to assessment for the purpose of the petroleum and gas fund as required by the provisions of the act of legislature approved June 10, 1915, providing for the assessment and collection of charges for oil protection; that I have faithfullly complied with all the duties imposed upon me by law; that I have not imposed any unjust or double assessment through malice or ill will, or otherwise; nor allowed any person, firm, corporation or association or property to escape a just assessment or charge through favor or regard, or otherwise." But the failure to subscribe such certificate to such record of assessments and charges for oil protection, or any certificate, shall not in any manner affect the validity of any assessment or charge. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

§ 40. **Publication of controller's notice.** Within ten days after the receipt of the record of assessments and charges for oil protection, the

state controller must begin the publication of a notice to appear daily for five days, in one daily newspaper of general circulation published in each of the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under or pursuant to the terms and provisions of this act, if one be published therein, otherwise for at least two times in a weekly or semi-weekly paper of general circulation published therein, or if there be neither a daily nor weekly nor semi-weekly paper of general circulation published in any one of such counties, then the publication of the notice for such county shall be made in a similar manner in a newspaper of general circulation published in the county nearest such county, specifying: (1) That he has received from the state mineralogist the record of assessments and charges for oil protection; (2) that the charges therein assessed and levied are due and payable on the first Monday in July and that one-half thereof will be delinquent on the sixth Monday after the first Monday in July at six o'clock P. M., and that unless paid to the state treasurer at the capital prior thereto, fifteen per cent will be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock P. M., an additional five per cent will be added to the amount thereof; and that the remaining one-half of said charges will become delinquent on the first Monday in February next succeeding the day upon which they become due and payable, at six o'clock P. M. and if not paid to the state treasurer at the capital prior thereto, five per cent will be added to the amount thereof. Costs of such publication in any county shall be paid from the petroleum and gas fund. [Amendment approved June 1, 1917; Stats. 1917, p. 1601.]

§ 41. **Assessments constitute lien.** The assessments and charges levied under the provisions of this act shall contitute a lien upon all the property of every kind and nature belonging to the persons, firms, corporations and associations assessed under the provisions hereof, which lien shall attach on the first Monday in March of each year. Such lien shall be enforced and said charges collected by an action by the state controller as provided in section forty-four of this act. [Amendment approved June 1, 1917; Stats. 1917, p. 1601.]

§ 42. **Charges paid to state treasurer.** All charges assessed and levied under the provisions of this act shall be paid to the state treasurer upon the order of the state controller. The controller must mark the date of payment of any charge on the record of assessments for the petroleum and gas fund and shall give a receipt for such payment in such form as the controller may prescribe. Errors appearing upon the face of any assessment on said record of assessments or overcharges may be corrected by the controller by and with the consent of the state board of control, in such manner and at such time as said controller and said board shall agree upon. [Amendment approved June 1, 1917; Stats. 1917, p. 1602.]

§ 43. **Action to recover damages. Procedure. Failure to bring action.** Any person, firm, corporation or association claiming and protesting as herein provided that the assessment made or charges assessed against

him or it by the state mineralogist is void, in whole or in part, may bring an action against the state treasurer for the recovery of the whole or any part of such charges, penalties or costs paid on such assessment, upon the grounds stated in said protest, but no action may be brought later than the third Monday in February next following the day upon which the charges were due, nor unless such person, firm, corporation or association shall have filed with the state controller at the time of payment of such charges, a written protest stating whether the whole assessment or charge is claimed to be void, or if a part only, what part, and the grounds upon which such claim is founded, and when so paid under protest the payment shall in no case be regarded as voluntary.

Whenever, under the provisions of this section, an action is commenced against the state treasurer, a copy of the complaint and of the summons must be served upon the treasurer, or his deputy. At the time the treasurer demurs or answers, he may demand that the action be tried in the superior court of the county of Sacramento, which demand must be granted. The attorney employed by the state oil and gas supervisor must defend such action; provided, however, the said mineralogist may at the request of the said oil and gas supervisor employ additional counsel, the expense of which employment shall be paid from the petroleum and gas fund. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

A failure to begin such action within the time herein specified shall be a bar against the recovery of such charges. In any such action the court shall have the power to render judgment for the plaintiff for any part or portion of the charge, penalties, or costs found to be void and so paid by plaintiff upon such assessment. [Amendment approved June 1, 1917; Stats. 1917, p. 1602.]

§ 44. Action to collect delinquent charges. Procedure. The state controller shall, on or before the thirtieth day of May next following the delinquency of any charge as provided in this act, bring an action in a court of competent jurisdiction, in the name of the people of the state of California, in the county in which the property assessed is situated, to collect any delinquent charges or assessments, together with any penalties or costs, which have not been paid in accordance with the provisions of this act and appearing delinquent upon the records of assessments and charges for the petroleum and gas fund in this action provided for.

The attorney for the state oil and gas supervisor shall commence and prosecute such action to final judgment and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for. The state mineralogist may employ additional counsel to assist the attorney for the state oil and gas supervisor, and the expense of such employment shall be paid from the petroleum and gas fund.

Payments of the penalties and charges, or amount of the judgment recovered in such action must be made to the state treasurer. In such actions the record of assessment and charges for oil protection, or a copy of so much thereof as is applicable in said action, duly certified

by the controller showing unpaid charges against any person, firm, corporation or association assessed by the state mineralogist is prima facie evidence of the assessment upon the property, the delinquency, the amount of charges, penalties, and costs due and unpaid to the state, and that the person, firm, corporation or association is indebted to the people of the state of California in the amount of charges and penalties therein appearing unpaid and that all forms of law in relation to the assessment of such charges have been complied with. [Amendment approved June 1, 1917; Stats. 1917, p. 1603.]

§ 46. **Petroleum and gas fund.** All the moneys heretofore paid to the state treasurer under or pursuant to the provisions of this act and deposited to the credit of the oil protection fund, shall be withdrawn from said fund, which is hereby abolished, and deposited to the credit of the petroleum and gas fund which is hereby created. All of the moneys hereafter paid to the state treasurer under or pursuant to the provisions of this act shall be deposited to the credit of the petroleum and gas fund. All moneys in such fund shall be expended under the direction of the state mineralogist, drawn from such fund for the purpose of this act upon warrants drawn by the controller of the state, upon demands made by the state mineralogist, and audited by the state board of control. Of the moneys in said petroleum and gas fund, when such action has been authorized by the state board of control, the state mining bureau may withdraw, without at the time furnishing vouchers and itemized statements, a sum not to exceed five hundred dollars, said sum so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year, or at any other time, upon demand of the board of control, the moneys so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control. [Amendment approved June 1, 1917; Stats. 1917, p. 1603.]

§ 47. **Repair work.** All moneys received in repayment of repair work done under the order and direction of the supervisor as hereinbefore provided, shall be returned and credited to the petroleum and gas fund. [Amendment approved June 1, 1917; Stats. 1917, p. 1604.]

§ 48. **Supervisor's annual report.** On or before the first day of October of each and every year the supervisor shall submit a report in writing to the state mineralogist showing the total number of barrels of petroleum produced in each county in the state during the previous calendar year, together with the total cost of said department for the previous fiscal year and the net amount remaining in the petroleum and gas fund available for the succeeding fiscal year's expense, also the total amount delinquent and uncollected from any assessments or charges levied under or pursuant to the provisions of this act. Such report shall also include such other information as the supervisor may deem advisable. The state mineralogist shall make public such statements promptly after receipt of the same from the supervisor for the benefit of all parties interested therein. [Amendment approved June 1, 1917; Stats. 1917, p. 1604.]

§ 49. **Certificate showing names of persons claiming interest.** The owner or operator of any lands or tenements subject to assessment under this act shall, within six months after this act goes into effect, file with the supervisor a certificate which shall contain the names of all the parties claiming an interest in or to said lands and full description of the property and the names of all parties in interest where such interest is held by lease, license or assignment. [Amendment approved June 1, 1917; Stats. 1917, p. 1604.]

ACT 2225.

An act to establish a uniform system of mine bell signals, to be used in all mines operated in the state of California, and for the protection of miners. [Approved March 8, 1893. Stats. 1893, p. 82.]

Repealed 1917; Stats. 1917, p. 434.

TITLE 356.

MONTEREY COUNTY.

ACT 2317.

An act to provide for the accomplishment of the work of constructing a breakwater in Monterey Bay, California, as recommended in the report of the chief of engineers, United States army, and printed in a document of the United States house of representatives, No. 1084, sixty-first congress, third session, calling for an expenditure of eight hundred thousand dollars and making an appropriation for such work. [Approved March 15, 1911. Stats. 1911, p. 371.]

The act appropriated $200,000 for the purpose indicated, conditional upon the United States government taking charge of the work and appropriating $600,000 for the work.

This act was superseded by the act of 1917, p. 475. See next Act.

ACT 2318.

An act making an appropriation to aid in the construction of a breakwater in Monterey Bay, California. [Approved May 14, 1917. Stats. 1917, p. 475. In effect July 27, 1917.]

This act appropriated $200,000 for the purpose indicated, conditional upon the United States government taking charge of the work and appropriating not less than $200,000 for the work.

TITLE 360.

MOTOR VEHICLES.

ACT 2331b.

An act to regulate the use and operation of vehicles upon the public highways and elsewhere; to provide for the registration and identification of motor vehicles and for the payment of registration fees therefor; to provide for the licensing of persons operating motor vehicles; to prohibit certain persons from operating vehicles upon the public highways; to prohibit the possession or use of a motor vehicle without the consent of the owner thereof; and to prohibit the offer to or acceptance by certain persons of any bonus or discount

or other consideration for the purchase of supplies or parts for motor vehicles, or for work or repair done thereon; to provide penalties for violations of provisions of this act, and to provide for the disposition of fines and forfeitures imposed thereon; to limit the power of local authorities to enact or enforce ordinances, rules or regulations in regard to matters embraced within the provisions of this act; to provide for the disposition of registration and license fees, fines and forfeitures collected hereunder; to create a motor vehicle department and to provide for the organization and conduct thereof; to provide for carrying out the objects of this act, and to make appropriation therefor; and to repeal all acts or parts of acts in conflict with this act.

[Approved May 10, 1915. Stats. 1915, p. 397.]

Amended 1917; Stats. 1917, p. 382.

The amendment of 1917 follows:

§ 1. Words and phrases defined. The words and phrases used in this act shall for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) "motor vehicle" shall include all vehicles propelled otherwise than by muscular power, except trailers and such vehicles as run upon stationary rails or tracks; (2) "automobile" shall include all motor vehicles excepting motorcycles; (3) "motorcycle" shall include all motor vehicles designed to travel on not more than three wheels in contact with the ground, and of not exceeding ten horse-power, and of not exceeding the weight of five hundred pounds unladen; provided, however, that any motor vehicle which shall be operated on the public highway drawing a trailer shall be deemed to be an automobile for all the purposes of this act; and provided, further, that for the purposes of this act a trailer shall be deemed to be any vehicle which is at any time drawn upon the public highway by a motor vehicle, excepting any implements of husbandry temporarily drawn, propelled or moved upon such highway; (4) "highway" shall include any public highway, county road, state highway or state road, public street, avenue, alley, park, parkway, driveway, square or place, bridge, viaduct, trestle, or any other territory or structure, whether public or private, designed, intended or used by or for the general public for the passage of vehicles, in any county, or incorporated city and county, city or town within the state of California; (5) "business district" shall mean the territory of any county or incorporated city and county, city or town, contiguous to a public highway, which is on the line of said highway mainly built up with structures devoted to business; provided, that the local authorities having charge of such highway shall have placed conspicuously thereon at the boundary lines of such business district, signs of sufficient size to be easily readable by a person using the highway, bearing the words "business district—slow down to fifteen miles an hour," and also an arrow pointing in the direction of said business district; (6) "closely built up" shall mean the territory of any county or incorporated city and county, city or town, contiguous to a public highway, which is on the line of said highway not mainly devoted to business, where for not less than a quarter of a mile the dwelling-

houses and business structures on such highway average less than one hundred feet apart; provided, that the local authorities having charge of such highway shall have placed conspicuously thereon at the boundary lines of such district, signs of sufficient size to be easily readable by a person using the highway, bearing the words "speed limit twenty miles an hour," and also an arrow pointing in the direction of said closely built up district; (7) "local authorities" shall include all boards of supervisors, trustees or councils, commissions, committees, and other public officials of counties, incorporated cities and counties, cities or towns, or municipal or quasi-municipal corporations when such officials possess or exercise legislative or police powers; (8) "chauffeur" shall mean any person who operates an automobile in the transportation of persons and who receives any compensation for such service in wages, commission or otherwise, paid directly or indirectly, or who as owner or employee operates an automobile carrying passengers for hire; provided, however, that this definition shall not include manufacturers' agents, proprietors of garages and dealers, salesmen, mechanics, or demonstrators of automobiles in the ordinary course of their business; (9) the term "state" as used in this act, except where otherwise expressly provided, shall also include the territories, federal districts and insular possessions of the United States; (10) "nonresidents" shall mean residents of states or countries other than the state of California whose sojourn in this state, or whose occupation of their regular place of abode or business in this state, if any, covers a total period of less than three months in the calendar year; (11) "owner" shall include any person, firm, association, or corporation, having the lawful use or control, or the right to the use or control, of a vehicle, under a lease or otherwise, for a period of ten or more successive days; (12) "manufacturer" or "dealer" shall signify a person, firm, association, or corporation regularly in the business of having in his, its or their possession vehicles for sale or trade and for use and operation pursuant thereto, and shall be considered owners of vehicles manufactured or dealt in by them for the purposes of this act, prior to sale and delivery thereof, and of all vehicles in their possession and operated or driven by them or by their employees; provided, however, that anything to the contrary herein notwithstanding, the determination of the motor vehicle department shall be final and conclusive upon the question whether or not an applicant for registration shall be a manufacturer or dealer within the meaning and intent of this act; (13) "garage" shall mean every place of business where motor vehicles are received for housing, storage or repair, for compensation; (14) "intersecting highway" shall mean any highway which joins another at an angle, whether or not it crosses the other; (15) "operator" shall mean any person other than a chauffeur who operates a motor vehicle and any person who operates, rides, drives or propels any vehicle other than a motor vehicle; (16) "person" shall include any corporation, association, copartnership, company, firm, or other aggregation of individuals; and where the term "person" is used in connection with the registration of a vehicle, it shall include any corporation, association, copartnership, company, firm, or other aggregation of individuals which owns or controls such vehicle as actual owner, or for the purpose of sale or for renting, whether as agent, salesman, or otherwise; (17) "department" as

used in this act shall mean the motor vehicle department of California, acting directly or through its duly authorized agent; (18) "vehicle" shall include every wagon, hack, coach, carriage, omnibus, bicycle, tricycle, automobile, cyclecar, motorcycle, truck, trailer, traction engine, tractor, or other conveyance or contrivance for moving persons, animals or things, in whatever manner and by whatever force or power the same may be ridden, driven, propelled, drawn or moved, which is ridden, driven, propelled, drawn or moved on the public highway, including implements of husbandry temporarily drawn, propelled or moved on the public highway, and excepting only conveyances drawn or propelled by pedestrians, and railroad, street or interurban cars, engines and motors moving upon stationary rails or tracks; (19) the city and county of San Francisco shall be considered a county; (20) "net receipts" shall signify the balance remaining of the money paid to the department in conformity with the provisions of this act after the payment of all salaries, expenses and refunds incident to the administration and enforcement of this act; (21) "specially constructed" motor vehicle shall mean a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of motor vehicles; provided, that in case of dispute the determination of said department as to the character of construction of any such motor vehicle shall be conclusive; (22) "reconstructed motor vehicle" shall mean a motor vehicle which shall have been assembled or constructed largely by means of essential parts, new or used, derived from other motor vehicles or makes of motor vehicles of various names, models or types, or which, if originally otherwise constructed, shall have been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other motor vehicles or makes of motor vehicles; provided, that for the purpose of this act the term "essential parts" shall include not only integral parts but also body parts, such as fenders, hood, cowl, and other parts the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the motor vehicle; and provided, further, that in case of dispute the determination of said department as to the character of such assembly, reconstruction or alteration shall be conclusive; (23) "imported motor vehicle" shall mean any motor vehicle which shall be brought into the state from another country or state otherwise than in the ordinary course of business by or through a manufacturer or dealer, and which has not been registered in this state, except such motor vehicles, owned by nonresidents, as are provided for by section twenty-seven of this act; (24) "highway commission" shall mean the appointed members of the advisory board of the department of engineering of the state of California. [Amendment approved May 10, 1917; Stats. 1917, p. 382.]

§ 3. **Application for registration. Determination of horse-power. Imported motor vehicle. Trailers.** Every owner of a motor vehicle which shall be operated or driven upon the public highways shall, for each motor vehicle owned, except as herein otherwise expressly provided, cause to be filled, by mail, or otherwise, with the department an application for registration on a blank to be furnished by said department

for that purpose, containing, in addition to such other particulars as may be required by said department, a statement of the name and postoffice address of the applicant, a description of such motor vehicle, including the name of the maker, the number, if any, affixed to the motor or engine by the maker, the character of the motive power, and the diameter of the cylinder bore and the number of cylinders; and with such application the applicant shall deposit the proper registration fee as provided in section seven of this act; provided, that for all the purposes of this act the horse-power of any motor vehicle, except electric or steam-driven vehicles, shall be determined by the formula commonly known as that of the Association of Licensed Automobile Manufacturers (A. L. A. M.), being as follows: square the diameter of the cylinder in inches, multiply by the number of cylinders, and divide by two and five-tenths; provided, further, that for the purposes of this act the horse-power of any steam-driven motor vehicle shall be the horse-power rating fixed and advertised by the manufacturer thereof; provided, further, that in case the motor vehicle sought to be registered shall be a specially constructed or a reconstructed motor vehicle, that fact must be stated by the applicant in his application for registration and he shall furnish the department on demand such additional information relating to said motor vehicle as shall be satisfactory to the department before it may register such vehicle; and provided, further, that in case the motor vehicle sought to be registered shall be an imported motor vehicle, within the meaning of this act, that fact must be stated by the applicant in his application for registration, and he shall furnish the department on demand such additional information relating to said motor vehicle as shall be satisfactory to the department before it may register such vehicle, and in case such vehicle shall have been theretofore registered in any other state or country, the applicant shall with his original application for registration supply the department with full information relating to such former registration and shall surrender to the department any number plates, seals, certificates of registration or other evidences of such former registration as may be in the applicant's possession or control. Every owner of a trailer or trailers which shall be drawn upon a public highway when any such trailer shall exceed one ton in weight shall cause to be filed by mail or otherwise, with the department, an application for registration on a blank to be furnished by said department for that purpose, containing in addition to such other particulars as may be required by said department, a statement of the name and postoffice address of the applicant, and with such application the applicant shall deposit the proper registration fee, as provided in section seven of this act. [Amendment approved May 10, 1917; Stats. 1917, p. 385.]

§ 4. **Registration. Record posted.** Upon the receipt by the department of an application for registration of a motor vehicle or trailer or trailers accompanied by the fee required by section seven of this act, the department shall file such application and if satisfied that the applicant is entitled to registration of said vehicle or vehicles as the owner thereof within the meaning of this act, and if all fees theretofore payable to the department in connection with the registration, or any re-

newal thereof, of said vehicle or vehicles shall have been duly paid, shall alphabetically, and also numerically, register such motor vehicle or trailer or trailers with the name and postoffice of the owner, together with the facts stated in such application, in a book or on index cards to be kept for the purpose, under a distinctive number assigned to such motor vehicle or trailer or trailers by the department, which book or index cards shall be open to inspection by the public during reasonable business hours. A full record of all motor vehicle registration shall be posted daily by the department upon a bulletin-board so located so as to be easily accessible to the public, and no information relative to any such registrations shall be made public by any employee of the department in advance of such posting. [Amendment approved May 10, 1917; Stats. 1917, p. 386.]

§ 5. **Numbers.** Upon the filing of such application and the payment of the fee provided in this act, the department shall upon registration assign to such motor vehicle or trailer or trailers a distinctive registration number. Such number so assigned shall be the number assigned to such motor vehicle at each succeeding registration thereof so long as such motor vehicle shall be owned by the owner to whom the original assignment was made, and upon sale or transfer of such motor vehicle, said number may be canceled or may be reassigned as an original assignment to the same or another motor vehicle, at the option of said department, subject to the provisions hereinafter contained. [Amendment approved May 10, 1917; Stats. 1917, p. 387.]

§ 6. **Annual registration.** Such registration shall be renewed annually in the same manner and upon payment of the same fee as provided for original registration, such renewal to take effect on the first day of January of each year. The seals and certificates of registration furnished by the said department as provided hereinafter shall be valid during the calendar year only in which they are furnished or issued. [Amendment approved May 10, 1917; Stats. 1917, p. 387.]

§ 7. **Fees. Chauffeurs. Period less than one year.** The following fees shall be paid to the department upon the registration of a vehicle in accordance with the provisions of this act and shall accompany the application hereinabove provided for: For the registration of every motorcycle, two dollars; for the registration of every automobile, except electric automobiles, the sum of forty cents for each horse-power, or major fraction thereof, according to the formula specified in section three of this act; for the registration of every motor vehicle equipped with other than pneumatic tires and used for commercial purposes, weighing under four thousand pounds unladen, five dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for every such vehicle weighing four thousand pounds and over and less than six thousand pounds unladen, ten dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for every such vehicle, weighing six thousand pounds and over and less than ten thousand pounds unladen, fifteen dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for every such vehicle weighing ten thousand pounds and over unladen,

twenty dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for the registration of every electric motor vehicle, five dollars; for the registration of motor vehicles owned by or under the control of a manufacturer of, or dealer in, motor vehicles, if such person operates upon the public highways not more than five automobiles, twenty-five dollars, and two dollars for every automobile in excess of five so operated, including the necessary number plates; for the registration of the motorcycles owned by or under the control of a manufacturer of, or dealer in motorcycles, and who does not operate upon the public highway more than five motorcycles, five dollars, and one dollar for every motorcycle in excess of five so operated, including the necessary number plates; for every registration number plate for trailers, two dollars; for the original license of every chauffeur, two dollars, and for each annual renewal thereof one dollar; for every additional number plate furnished to replace such plates as have been lost or mutilated or which are illegible, one dollar, which shall include seal; for every seal or registration certificate furnished to replace such as have been lost or mutilated or which are illegible, fifty cents.

Anything herein to the contrary notwithstanding, if application for the registration of a motor vehicle or for an original chauffeur's license is made during the period beginning on the first day of April and ending on the thirtieth day of June, in any year, three-fourths of the annual fee shall be paid; if application is made during the period beginning on the first day of July and ending on the thirtieth day of September, one-half of such annual fee; if application is made during the period beginning on the first day of October and ending on the thirty-first day of December, one-fourth of such annual fee. [Amendment approved May 10, 1917; Stats. 1917, p. 387.]

§ 8. Number plates furnished. Registration seal. Certificate of registration. Plates, etc., furnished without charge. Transfer of ownership. Joint statement. New registration. Person not intending to operate. Rebate. Unsafe motor vehicle or trailer. The department shall furnish to every person whose motor vehicle or trailer or trailers shall be registered as aforesaid, on original registration, one number plate for motorcycles and trailers; and two number plates for automobiles, the same to have displayed upon them the registration number assigned to such vehicle, together with the abbreviation "Cal.," and to have space provided thereon to which may be attached each year the registration seal to be furnished by the department as hereinafter provided; provided, however, that number plates furnished for trailers and for such motor vehicles as are exempted by section two of this act from the payment of the fees in this act prescribed shall contain suitable distinguishing marks or symbols, and the numbers assigned in such cases shall run in different numerical series from the numbers assigned to other vehicles registered under the provisions of this act; and provided, further, anything to the contrary in this act notwithstanding, that it shall not be necessary to apply for registration of implements of husbandry temporarily drawn, moved or otherwise propelled upon the public highway, nor shall it be necessary for the department to

assign any distinguishing numbers to such implements of husbandry or to furnish number plates for display thereon. Said department shall furnish with each number plate, and on each annual renewal of registration, a registration seal together with screws or other means of attachment to the number plate, the form and character of which seal shall be uniform for any one calendar year, such seal to be changed by the department as to design or color or both, from year to year. Said seal shall bear the identical number shown on the number plate to which it is to be attached and also the calendar year for which it is issued and it shall be valid only for such year. The department shall also furnish with each number plate for motorcycles and with each pair of number plates for automobiles, and on each annual renewal of registration, a certificate of registration which shall contain upon the face thereof the following data: The name of the registered owner of the motor vehicle, his postoffice address, the make of the vehicle, the year model denoted by the manufacturer, the model or letter denoted by the manufacturer, if any, the engine or motor number, the registered horse-power, the registration number and the amount of annual registration fee, together with the date of issue of the certificate. In case of motorcycles, the manufacturer's serial number shall be stated in lieu of the engine number. Such certificate shall contain a blank space for the signature of the registered owner. The reverse side of said certificate shall contain forms (a) for notice to the department by the registered owner, in case of transfer of ownership, as hereinafter required, and (b) for application to the department by the transferee, in case of transfer of said motor vehicle, for registration thereof in his name, said application to be in the form of a joint statement to be signed by both transferor and transferee and to contain, in addition to such other particulars as may be required by said department, a statement of the postoffice address of the transferee so applying for registration. Said certificate shall contain the identical registration number denoted on the number plate or plates and seal in connection with which such certificate is issued, and it shall be valid only for the calendar year in which it is issued. Said certificate shall be inclosed in a suitable container, to be furnished by the department, such container to have a frame of aluminum or other metal and to have a cover of isinglass or other transparent material, through which such certificate can be easily inspected, and with such container said department shall furnish screws or other suitable means of attachment to the motor vehicle. Said number plates, seals, certificates and containers shall be furnished by the department without further charge than the fees specified in section seven of this act, with transportation prepaid, and shall be of substantial character and suitable form and design, to be determined by the department.

Upon the transfer of ownership of any motor vehicle its registration shall expire and the person in whose name such vehicle is registered shall forthwith (a) file with the department a notice, upon the form furnished by the department and attached to the certificate of registration, containing the date of such transfer of ownership and the name and postoffice address of the transferee, and, (b) subject to the provisions hereinafter contained, return the registration number plate or

plates and seal, transportation prepaid, to the department. In the case of such transfer of ownership of any motor vehicle or in case of loss of possession thereof, the registered owner, provided that he applies to the department within ten days after such transfer or loss of possession, may have assigned to another motor vehicle the registration number of the motor vehicle so transferred or lost; provided, further, that in such case of transfer and application for reassignment to another motor vehicle, the number plate or plates and seals may be retained for a period of ten days after such transfer, and if application for such reassignment shall have been made within said period they may be further retained until the department has either duly reassigned said number in accordance with said application or has refused said application for reassignment and has canceled said number and demanded surrender of said plate or plates and seals.

Upon the transfer of ownership of any motor vehicle, the person in whose name such vehicle is registered and the person to whom ownership of such vehicle is to be transferred shall forthwith join in a statement of said transfer indorsed upon the reverse side of the certificate of registration of said motor vehicle in the space provided for said purpose, which statement shall be signed by the transferrer in the manner and form of his signature contained on the face of said certificate and which statement shall likewise be signed by the transferee, who shall also set forth below his signature his postoffice address. Said statement shall include an application by the transferee for registration of said vehicle in his name. Said certificate so indorsed and bearing upon the reverse side thereof the signatures of the transferrer and transferee, shall be forwarded by the transferee to the department together with the proper fee for registration required by section seven of this act. The department shall file said certificate so jointly indorsed by transferrer and transferee and upon receipt of the proper fee as above provided the department, if satisfied of the genuineness and regularity of said transfer, shall register said motor vehicle in the name of said transferee and may cancel the former registration number or assign the same to the same or another motor vehicle, at the option of the department, subject to the other provisions of this act. Upon such registration the department shall issue and forward to the applicant without further charge than as provided in section seven of this act, a new registration certificate in the manner and form as hereinabove provided for original registration. Until said transferee has received said certificate of registration and has written his name upon the face thereof in the blank space provided for said purpose by the department, delivery of said motor vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed and said intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose; provided, that where such transfer is made to a manufacturer or dealer to whom has been assigned a general distinguishing number and who intends to resell or otherwise retransfer said vehicle a certificate of registration shall be furnished without charge to him; it shall be in a distinctive form and shall bear such manufacturer's or dealer's general distinguishing number, whereupon such manufacturer or dealer shall be entitled to display upon such vehicle number plates assigned to him by the depart-

ment bearing said general distinguishing number; but upon sale or transfer of said vehicle by such manufacturer or dealer, each and every provision herein contained relative to the return of such certificate to the department with the joint statement of transferer and transferee indorsed thereon, as well as other provisions applicable upon transfer of motor vehicles, shall be complied with. In case of a transfer of a motor vehicle to such manufacturer or dealer without the removal therefrom by the transferee of the number plates and seals, the manufacturer or dealer shall forthwith deliver to the department, transportation prepaid, said number plates and seals. In case of transfer of ownership of a motor vehicle, registered under the provisions of this act, by operation of law, as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract or otherwise than by the voluntary act of the registered owner, the notice of transfer as well as the joint statement hereinabove provided for shall be signed by the executor, administrator, receiver, trustee, sheriff, or other representative or successor in interest of the registered owner in lieu of such owner, and the transferee's application for registration shall be accompanied by a statement of the special facts in the premises; provided, that the department may in its discretion require from the transferee, before registering such motor vehicle, such additional information respecting such involuntary loss of ownership by the former registered owner as may be satisfactory to the department.

Anything to the contrary hereinabove notwithstanding, upon the transfer of ownership of any motor vehicle to a person not intending either to operate the same or to cause or permit the same to be operated upon the public highways and not intending to transfer such motor vehicle to another person, a statement by said transferee of such fact or intent shall accompany the application for registration, in which case no fee for registration need be paid by the applicant, but the registration number plates and seals, if not retained by the transferrer, shall be forthwith forwarded, without demand, to the department, whereupon the department, if satisfied of the genuineness and regularity of said transfer and if satisfied of the facts stated in said application for registration, shall register, without any charge whatever, such motor vehicle in the name of said transferee and shall issue and forward to him a new registration certificate, in a distinctive form to be determined by the department; provided, that until said transferee has received said registration certificate delivery of said motor vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed and said intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose; and provided, further, that nothing herein contained shall be so construed as to permit such motor vehicle to be operated upon the public highway under such distinctive certificate of registration last hereinabove provided for.

A person who transfers the ownership or loses possession of a motor vehicle registered in his name or removes such motor vehicle from the state, shall be entitled to a rebate bearing the same proportion to that portion of the fee theretofore paid by him, as the remaining quarters of the calendar year bear to that portion of the year for which said fee

was paid; provided, that any such rebate shall not be paid excepting upon a certificate filed by the department with the state board of control, setting forth the facts; and provided, further, that such rebates shall be paid out of the motor vehicle fund.

If the department shall determine, at any time, that for any reason a motor vehicle or trailer is unsafe or is improperly equipped or is otherwise unfit to be operated, or that the applicant for registration thereof is not entitled as owner thereof to such registration, the department may refuse to register such vehicle and may, for a like reason, revoke any registration already acquired. [Amendment approved May 10, 1917; Stats. 1917, p. 388.]

§ 9. Dealers' distinguishing number or symbol. Dealer's agency. Five pairs of plates furnished. Unlawful use. Written permit without registration. Notice of transfer of motor vehicle. Every manufacturer of, or dealer in, motor vehicles may make application to the department, by mail or otherwise, upon a blank provided by the department, for a general distinguishing number or symbol, instead of registering each motor vehicle owned by him, and with such application he shall deposit the proper registration fee as provided in section seven of this act; and the department shall grant the application if satisfied of the facts stated in the application and shall issue to the applicant a certificate of registration containing the name and business address of the applicant and the general distinguishing number or symbol assigned to him, and made in such form and containing such further information as the department may determine; and every motor vehicle owned or controlled by such manufacturer or dealer shall be regarded as registered under such general distinguishing number or symbol until sold, or until let for hire, or until loaned for a period of more than ten successive days; provided, that whenever a manufacturer or dealer shall maintain a branch or subagency he shall apply for a separate registration for such branch or subagency and shall pay therefor the fee provided in section seven of this act for the registration of motor vehicles owned by or under the control of a manufacturer or dealer, and the determination of the department upon the question whether any establishment constitutes a branch or subagency within the intent of this act, shall be conclusive. The department shall furnish, without other charge than the fee specified in section seven of this act, with transportation charges prepaid, to every manufacturer of or dealer in automobiles or motorcycles applying therefor whose vehicles are registered in accordance with the provisions of this section, five pairs of automobile number plates or five single motorcycle number plates, of suitable design, together with the accompanying seals, the plates to have displayed upon them the registration number which is assigned to the motor vehicles of such manufacturer or dealer, with a different symbol on each pair of automobile number plates and on each single motorcycle plate. If the department shall determine at any time for due cause that any such manufacturer or dealer to whom the certificate of registration provided for in this section has been issued and to whom such general distinguishing number or symbol has been assigned has failed to comply with the requirements of this section hereinafter contained with reference to notices or reports of transfer or motor vehicles, or has caused or suffered,

or is causing or suffering, the unlawful use of such certificate or number, the department may revoke said certificate of registration and recall and cancel said general distinguishing number or symbol, in which event said manufacturer or dealer, after notice of such action on part of the department, shall, without further demand, return to the department any and all number plates and seals that may have been furnished him by the department under said certificate so revoked; provided, that no manufacturer or dealer or any employee of such manufacturer or dealer, shall cause or permit the display, or other use, of any number plate, seal or certificate of registration which may have been furnished to such manufacturer or dealer under the general distinguishing number or symbol hereinbefore provided for, excepting upon motor vehicles owned by such manufacturer or dealer within the meaning and intent of this act; provided, further, that no person shall display, or otherwise use or have in his possession any number plate, seal or certificate of registration furnished by the department under a general manufacturer's or dealer's distinguishing number or symbol, except such manufacturer or dealer or his employees; and provided, further, that if the department, upon receiving from any manufacturer or dealer an application for the issuance for the ensuing calendar year of the certificate of registration and general distinguishing number or symbol provided for in this section, shall determine upon due cause that such manufacturer or dealer during the previous calendar year has failed to comply with the requirements of this section hereinafter contained respecting the filing of notices or reports of transfer of motor vehicles, or has caused or suffered, or is causing or suffering, the unlawful use of such certificate or number, the department may refuse such application.

When it shall become necessary for a manufacturer of, or dealer in, or consignee of, motor vehicles to move any vehicles owned by or consigned to him, not being registered under any of the provisions of this act, from any vessel, railroad depot, or warehouse, to the salesrooms or other place of business of such manufacturer or dealer, or to a warehouse or other place of storage, over the public highways, he may operate such vehicle, either under its own power or otherwise, over such public highways as are necessary for said purpose, without first registering said motor vehicle or affixing thereto any number plates issued to him under the general distinguishing number or symbol hereinabove specified; provided, however, that in such event he shall first obtain from the police authorities or marshal of the city or town in which said vessel, railroad depot or warehouse is situated, a written permit authorizing such operation; and there is hereby conferred upon police authorities, including town marshals, within the state of California, authority to issue such permits in proper cases as hereinbefore provided.

Upon the transfer of any motor vehicle by a manufacturer or dealer, whether by sale, lease or otherwise, such motor vehicle not being registered under the provisions of section three hereof, such manufacturer or dealer shall, within three days after such transfer, file with the department, upon a blank to be furnished by the department, a notice or report containing the date of such transfer, a description of such motor vehicle and the name and postoffice of the purchaser, lessee or other transferee.

Upon the transfer of any automobile engine or motor, except a new engine or motor transferred with intent that the same be installed in a new automobile, and whether such transfer be made by a manufacturer or dealer or otherwise, and whether by sale, lease or otherwise, the transferer shall within three days after such transfer file with the department, upon a blank to be furnished by the department, a notice or report containing the date of such transfer and a description, together with the maker's number, of said engine or motor, the name and post-office address of the purchaser, lessee or other transferee. [Amendment approved May 10, 1911; Stats. 1911, p. 392.]

§ 10. Residents of other states. [Repealed 1917; Stats. 1917, p. 395.]

§ 11. Numbers must be displayed. Registration certificate affixed. When fee becomes delinquent. Except as in this act otherwise provided, no person shall operate or drive, or cause to be operated or driven, a motor vehicle, or cause a trailer to be drawn by a motor vehicle, on the public highways unless such vehicle shall at all times have displayed the number plate or plates furnished for it as hereinbefore provided, together with registration seal or seals furnished by the department; in case of automobiles, each such vehicle shall display one number plate on the front and the other on the back thereof and said registration seals shall be securely attached to the number plates in the space provided thereon for that purpose; in case of motorcycles and trailers, but one number plate with registration seal so attached thereto, shall be required to be displayed and such number plate upon motorcycles and trailers shall be at the rear thereof; in all cases such number plates shall be securely fastened to the motor vehicle or trailer so as to prevent said plates from swinging, and at a minimum distance of sixteen inches from the ground. Nothing in this act shall be construed to require the display of any number plate on other than the rear trailer, when more than one trailer is drawn by a motor vehicle. No person shall attach to, or display on, such motor or other vehicle, any number plate, or registration seal or certificate other than as assigned to it for the current year, or a fictitious, or altered number plate, seal or registration certificate, or a number plate, seal or registration certificate that shall have been canceled by the department. All letters, numbers, seals, printing, writing and other identification marks upon said plates, seals and certificates, shall be kept clear and distinct and free from grease, dust or other blurring matter, so that they shall be plainly visible at all times during daylight and under artificial light in the night-time; provided, that in case any such plate, seal or certificate of registration, operator's license or chauffeur's license or badge shall be lost, mutilated or shall have become illegible, the person to whom such plate, seal, certificate, license or badge shall have been furnished shall immediately apply to the department for a duplicate thereof, accompanying his application with the fee specified in section seven of this act.

No person shall operate or drive a motor vehicle on the public highway unless such vehicle shall at all times carry in or upon it, subject to inspection by any peace officer, or employee of the department, the registration certificate furnished for it as hereinabove provided, which in case of an automobile shall be affixed, in the container furnished by

the department, in plain sight in the driver's compartment of the automobile and which, in case of a motorcycle, shall be carried either in plain sight affixed to said motorcycle, or in the tool bag or some other convenient receptacle attached to said motorcycle.

The registration fee required under this act to be paid upon a motor vehicle or trailer shall become delinquent in the case of any such vehicle forthwith upon the operation of the vehicle on the public highways without the registration fee required by this act first having been paid to the department, accompanied by the application for registration provided herein. It is hereby provided, in addition to any and all other penalties provided by this act, that if, at the expiration of thirty days after any registration fee becomes delinquent, such fee has not been paid and registration applied for, a penalty shall be added to the amount of such fee in an amount equal to twenty-five per cent of the fee required by section seven of this act, and that such fee, together with the amount of said penalty, shall be a lien upon the motor vehicle or trailer in regard to which said registration fee is delinquent, and the department shall have power and it is hereby made its duty to collect the said registration fee, together with the penalty, by seizure of such motor vehicle or trailer from the person in possession thereof, if any, and by the sale thereof. The seizure and sale herein authorized shall be conducted and carried out by the department in the same manner as is provided by law for the seizure and sale of personal property by the county tax collector for the collection of taxes due on said personal property; provided, however, that in case of annual renewal of registration, where the applicants have in all things complied with the requirements of this act and have duly applied for such annual renewal of registration before the commencement of the ensuing calendar year, accompanying their applications with the proper fees for such registration, they shall be entitled to operate said vehicles during the months of January and February without displaying the registration seals or certificates of the current year, on condition that they have at all times displayed upon said vehicles the number plates assigned to said vehicles respectively together with the registration seals and certificates assigned thereto for the previous calendar year. [Amendment approved May 10, 1917; Stats. 1917, p. 395.]

§ 13. **Lights.** (a) Where there is not sufficient light within the lateral boundaries of the public highway to reveal all persons, vehicles, or other substantial objects within said boundaries for a distance of at least one hundred fifty feet, and at all times during the period from a half hour after sunset to a half hour before sunrise, every automobile while on the public highway shall carry at the front at least two lighted lamps showing white or yellow lights visible under normal atmospheric conditions at least five hundred feet in the direction toward which said automobile is faced and every such automobile and every trailer, at the times and under the conditions in this section hereinbefore specified, shall carry at the rear a lighted lamp exhibiting a red light plainly visible, under normal atmospheric conditions, for a distance of five hundred feet toward the rear and so constructed and placed that the number plate carried on the rear of such automobile or trailer shall be illumi-

nated by a white light in such manner that the number thereon can be plainly distinguished under normal atmospheric conditions at a distance of not less than fifty feet toward the rear; provided, however, that where more than one trailer is attached to a motor vehicle, only the rear trailer shall be required to exhibit said light. At the times and under the conditions in this section hereinbefore specified all other vehicles, except motorcycles, bicycles, and such vehicles as may be propelled by a pedestrian, shall carry one or more lighted lamps or lanterns so arranged that said vehicle shall be visible from every direction for a distance of not less than two hundred feet.

(b) **Motorcycles and bicycles.** At the times and under the conditions in this section hereinbefore specified, every motorcycle or bicycle while on the public highway shall carry a lighted lamp showing a white or yellow light visible under normal atmospheric conditions at least three hundred feet in the direction toward which such motorcycle or bicycle is faced, and shall also carry at the rear of such motorcycle or bicycle a lighted lamp exhibiting a red light plainly visible under normal atmospheric conditions for a distance of at least two hundred feet toward the rear.

(c) **When load extends beyond bed of vehicle.** In any case where a motor or other vehicle shall be loaded with any material in such manner that any portion of such load extends toward the rear four feet or more beyond the rear of the bed or body of such vehicle, there shall be displayed at the extreme end of such load, at the times and under the conditions in this section hereinbefore specified, in addition to the ordinary rear or tail light hereinbefore required to be displayed on such vehicle a red light plainly visible under normal atmospheric conditions at least two hundred feet from the rear; provided, further, that at other times while such vehicle is upon the highway a red flag or cloth shall be displayed at the extreme rear end of said load, of suitable size to be plainly visible as a warning signal to persons operating vehicles approaching from the rear.

(d) **Range of lights.** At the times and under the conditions in this section hereinbefore specified the headlights of all motor vehicles upon the highway shall give sufficient light to reveal any person, vehicle or substantial object on the road directly ahead of such motor vehicle for a distance of at least one hundred fifty feet, and shall also give sufficient side illumination to reveal any person, vehicle or substantial object ten feet to the side of said motor vehicle at a point ten feet ahead of the lamps; provided, however, that such headlights shall be so constructed or arranged that no portion of the beam of reflected light when measured seventy-five feet or more ahead of said lamps shall rise or shall be capable of being raised from the driver's seat to more than forty-two inches above the level surface on which the vehicle stands ahead of such vehicle; provided, further, that the term "headlight" as used herein, shall denote any light, irrespective of its location upon the motor vehicle, the rays of which are projected forward, except sidelights of not to exceed four candle-power, and that the term "beam of reflected light," as used herein, shall denote the approximately parallel focalized rays gathered and projected by a reflector, lens or other device; and provided,

further, anything herein to the contrary notwithstanding, that where there is sufficient light within the lateral boundaries of the public highway within any incorporated city, town or city and county, to reveal all persons, vehicles or substantial objects within said boundaries for a distance of one hundred fifty feet, no lights shall be required to be displayed on any vehicle while the same is not in operation, providing that the wheels of such standing vehicle nearest the sidewalk are located within six inches of such sidewalk. [Amendment approved May 10, 1917; Stats. 1917, p. 395.]

§ 15. **No blocks, etc., on tires. Tractors.** (a) Other than on vehicles actually engaged at the time in construction or repair work on public highways, no tire on any motor or other vehicle operated on or over any public highway or bridge shall have on its periphery any block, stud, flange, cleat, ridge, bead or any other protuberance of metal or wood which projects beyond the tread or traction surface of the tire; but this section shall not be so construed as to prohibit the use of tire chains of reasonable proportions on motor vehicles when required for safety because of snow, ice or other conditions tending to cause such motor vehicle to slide or skid; provided, however, that traction engines or tractors the propulsive power of which is exerted not through wheels resting upon the ground but by means of a flexible band or chain, known as a movable track, may be operated upon the public highways with transverse corrugations upon the periphery of said movable tracks, on condition that a permit shall first have been obtained as hereinafter in this section provided.

(b) **Limit on weight of loads.** No motor or other vehicle shall be operated on or over any public highway or bridge, nor shall any object be moved over or upon any public highway or bridge on wheels, rollers, or otherwise, except when transported in or upon vehicles running exclusively on stationary rails or tracks, in excess of a total weight, including load, of thirty thousand pounds, when said motor or other vehicle or contrivance is equipped with four wheels running on the highway, or in excess of a total weight, including load, of forty thousand pounds when said motor or other vehicle or contrivance shall be equipped with six wheels running on the highway and with three axles not less than ninety-six inches apart, without first obtaining a permit as hereinafter in this section provided.

(c) **Permit required, when. Regulations in cities organized under freeholders' charters.** No motor or other vehicle or other object, or contrivance for moving loads, except as hereinafter otherwise provided, shall be operated or moved upon or over any public highway or bridge, the weight of which resting upon the surface of said highway or bridge exceeds eight hundred pounds upon any inch of width of tire, when said vehicle is equipped with tires made of other material than metal; and no motor or other vehicle, object, or contrivance for moving loads shall be operated or moved upon or over any public highway or bridge the weight of which resting upon the surface of said highway or bridge exceeds six hundred pounds upon any inch of width of tire, roller, wheel or other object supported on the surface thereof when such tires or the rolling surface of such rollers, wheels or other objects are made in whole

or in part of metal, without first obtaining a permit as hereinafter in this section provided; provided, however, that traction engines or tractors the propulsive power of which is exerted not through wheels resting upon the ground but by means of a flexible band or chain, known as a movable track, shall not be subject to the foregoing limitations upon permissible weights per inch of width of tire if the portions of the movable tracks in contact with the surface of the highway present plane surfaces; and provided, further, that cities heretofore or hereafter organized under freeholders' charters may permit or prohibit the increase, beyond the maximum weight per inch of width of tire hereinabove prescribed, of the weight of loads carried within the limits of such cities in or upon metal-tired vehicles drawn by muscular power, but where any such city has not by proper and suitable ordinance or other regulation permitted or prohibited such increase of maximum weight of loads, the regulations and limitations prescribed by this act shall not apply.

(d) **Brakes.** No motor vehicle shall be operated or driven over any public highway or bridge drawing or having attached thereto more than two trailers; provided, that all four-wheeled trailers excepting light camping trailers shall be equipped with suitable brakes.

(e) **Special permit of department of engineering.** Anything to the contrary herein notwithstanding, upon application in writing to the state department of engineering, said department of engineering in its discretion may issue a special permit to the owner or operator of any vehicle allowing heavier or wider loads than hereinabove in this section or elsewhere in this act permitted to be moved or carried over and on the public highways and bridges, or allowing more than two trailers to be drawn by a motor vehicle; and may also issue such special permit to increase the permissible weights per inch of width of tire and may also permit the use of corrugations on the periphery of the movable tracks of traction engines or tractors propelled not by wheels resting upon the ground but by flexible bands or chains. Such permits shall be in writing and they may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain such special conditions and provisions and require such undertaking or other security as the said department of engineering shall deem to be necessary to protect the public highways and bridges from injury, or provide indemnity for any injury resulting from such operation. All such special permits shall be carried in the vehicles to which they refer and shall upon demand be open to the inspection of any peace officer, any authorized agent of the department of engineering or of the motor vehicle department, or any officer or employee charged with the care or protection of the public highways. It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of such special permits and any such violation shall be deemed for all purposes to be a violation of the provisions of this act.

(f) **Limit on load below legal maximum.** Anything to the contrary herein notwithstanding, the state department of engineering may in its discretion limit the maximum load to be carried over or on any public bridge, causeway, viaduct, trestle or dam, below the maximum established by law; provided, however, that in such event said department of

engineering shall cause suitable signs to be erected and maintained, specifying such limitation of load, such signs to be placed at a distance of not less than one hundred feet nor more than one hundred fifty feet from the approaches to such bridge, causeway, viaduct, trestle or dam.

(g) **Owner of vehicle responsible for damages.** Anything to the contrary in this act notwithstanding, the owner and the operator, driver or mover of any vehicle, object or contrivance over a public highway or bridge, shall be jointly and severally responsible for all damages which said highway or bridge may sustain as the result of so operating or driving or moving such vehicle and the amount of such damages may be recovered in an action at law by the authorities in control of such highway or bridge. [Amendment approved May 10, 1917; Stats. 1917, p. 398.]

§ 17. **Intoxicated persons.** No person who is to such extent under the influence of intoxicating liquor that he cannot properly operate or drive a motor or other vehicle shall operate or drive a motor or other vehicle upon any public highway within this state. [Amendment approved May 10, 1917; Stats. 1917, p. 400.]

§ 18. **Owner's consent.** [Repealed 1917; Stats. 1917, p. 400.]

§ 20. **Rules of road.** (a) The driver or operator of any vehicle in or upon any public highway shall drive or operate such vehicle in a careful manner with due regard for the safety and convenience of pedestrians and of all other vehicles or traffic upon such highway, and wherever practicable shall traved on the right-hand side of such highway. Two vehicles which are passing each other in opposite directions shall have the right of way, and no other vehicle to the rear of either of such two vehicles shall pass or attempt to pass such two vehicles. On all occasions the driver or operator of any vehicle in or upon any public highway shall travel upon the right half of such highway unless the road ahead on the left-hand side is clear and unobstructed for at least one hundred yards ahead and in all cases while crossing an intersecting highway. For the purposes of this section and its subdivisions, an animal or animals attached to any conveyance shall, with such conveyance, be deemed to constitute one vehicle.

(b) Vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other one-half the road as nearly as possible.

(c) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left thereof and shall not again drive to the right until reasonably clear of such overtaken vehicle.

(d) It shall be the duty of the driver, rider or operator of a vehicle about to be overtaken and passed to give way to the right in favor of the overtaking vehicle, on suitable and audible signal being given by or on behalf of the operator, driver or other person in charge and control of such overtaking vehicle if such overtaking vehicle be a motor vehicle.

(e) Excepting where controlled by such traffic ordinances or regulations enacted by local authorities as are permitted under this act the operator of a vehicle approaching an intersection of the public highway shall yield the right of way to a vehicle approaching such intersection from the right of such first-named vehicle.

(f) It shall be the duty of the person operating or in charge of an overtaking vehicle to sound audible and suitable signal before passing a vehicle proceeding in the same direction.

(g) All vehicles approaching an intersection of a public highway, with the intention of turning thereat shall in turning to the right keep to the right of the center of such intersection, and in turning to the left shall run beyond the center of such intersection, passing to the right thereof, before turning such vehicle toward the left. For the purposes of this subdivision the "center of such intersection" shall be held to mean the meeting point of the medial lines of the two highways traversed by the vehicle making the turn.

(h) **Frightening of horses.** In all passing and overtaking such assistance shall be given by the occupants of each vehicle respectively to the other as the circumstances shall reasonably demand in order to obtain clearance and avoid accidents; every person having control or charge of any motor vehicle or other vehicle upon any public highway and approaching any vehicle drawn by a horse or horses, or any horse upon which any person is riding, shall operate, manage and control such motor vehicle or other vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses and to insure the safety and protection of any person riding or driving the same; and if such horse or horses appear frightened the person in control of such motor vehicle or other vehicle shall reduce its speed, and if requested by signal or otherwise by the driver or rider of such horse or horses shall not proceed further toward such animal or animals unless such movement be necessary to avoid accident or injury, until such animal or animals be under the control of the driver or rider thereof.

(i) **Keeping to right-hand of highway.** The person in control of any vehicle moving slowly along and upon any public highway shall keep such vehicle as closely as practicable to the right-hand boundary of the highway, allowing more swiftly moving vehicles reasonably free passage to the left.

(j) **Stopping or changing course.** The person in charge of any vehicle in or upon any public highway, before turning, stopping, or changing the course of such vehicle, and before turning such vehicle when starting the same, shall see first that there is sufficient space for such movement to be made in safety, and if the movement or operation of other vehicles may reasonably be affected by such turning, stopping or changing of course, shall give plainly visible or audible signal to the persons operating, driving or in charge of such vehicles of his intention so to turn, stop, or change his course.

(k) **Passing street-cars. Safety zones.** In passing any railroad, interurban or street-car while passengers are alighting from or boarding same, vehicles shall be operated or driven on the right-hand side of such street-car and at a rate of speed not exceeding ten miles an hour and shall be so operated or driven that no portion thereof or of any load thereon shall be within six feet of the running-board or steps of such car, and shall at all times be operated with due care and caution so that the safety of such passengers shall be assured; provided, however, that where local authorities have plainly marked upon the surface of the

highway safety zones for the protection of such passengers, vehicles shall not, at any time, be operated or driven within such zones; provided, further, that said safety zones shall only be marked at street corners or at other regularly established stations or stopping places of such railroad, or interurban, or street-cars, and shall not extend beyond seven feet toward the boundary of the highway from the outer rail of such railroad, interurban or street-car line.

(l) **In mountain passes.** Every motor vehicle when moving in defiles, canyons, or mountain passes where the curvature of the road or highway prevents a clear view for a distance of one hundred yards shall be held under control and not permitted to coast and the operator thereof in approaching curves shall give a warning of his gong or other adequate signaling device.

(m) **Police and fire patrols.** Police patrol wagons, police ambulances, fire patrols, fire engines and fire apparatus in all cases while being operated as such, shall have right of way with due regard to the safety of the public; but this provision shall not protect the driver or operator of any such vehicle or his employer or principal from the consequence of the arbitrary exercise of this right or for injuries willfully inflicted.

(n) **Stopping near fire hydrant.** No person shall hitch or leave standing, or cause or permit to be hitched or left standing, any animal, or leave standing or cause or permit to be left standing, any vehicle, or stop or cause or permit to be stopped any animal or vehicle at any time upon the public highway within fifteen feet of any public fire hydrant located upon the public highway or sidewalk, unless such animal is under the charge of some person capable of driving the same or unless such vehicle is in the charge of some person capable of operating or driving the same.

(o) **Width of vehicle.** No motor or other vehicle as defined in this act shall be operated or driven on or over any public highway or bridge if the outside width of tread exceeds one hundred twelve inches or if the total outside width of the bed of said vehicle and any load thereon shall exceed one hundred two inches, nor shall any pleasure type automobile be operated on or over any public highway or bridge if any luggage, package, trunk, crate, box or other load carried thereon extends to the side more than eight inches beyond the running-board of such automobile; provided, however, than any city now or hereafter organized under freeholders' charter may permit or prohibit an increase beyond the maximum hereinbefore prescribed of the total outside width of the beds of vehicles and any loads thereon, where such vehicles are operated or driven and said loads are carried wholly within the limits of said city, but where any such city shall not by proper and suitable ordinance or other regulation permit or prohibit such increased width, the regulations and limitations prescribed by this act shall not apply; and provided, that the regulations and limitations prescribed by this act relative to the maximum widths of vehicles and their loads shall not apply to implements of husbandry temporarily drawn, propelled or moved upon the highway; and provided, further, that loads not exceeding ten feet in width of loosely piled material not crated, baled, boxed,

sacked or carried otherwise than loosely in bulk, may be carried upon vehicles on the highway; provided, that the extreme width of such vehicles including any loading racks thereon, shall not exceed one hundred twenty inches, as hereinbefore prescribed.

(p) **Leaving vehicle standing on highway.** No person shall leave standing, or cause or permit to be left standing upon the main traveled portion, or any part thereof, of any public highway, a vehicle undergoing repair, or which has been stopped for the purpose of having repairs made thereon, or for the purpose of camping; provided, however, that this provision shall not apply to a vehicle which shall be disabled, while on such main traveled portion of the highway, in such manner and to such extent that it shall be impossible to avoid stopping such vehicle on said main traveled portion of the highway, and impracticable to remove the same therefrom until repairs shall have been made.

(q) **Law applies to riders of animals.** The provisions of subdivisions (a), (b), (c), (d), (e), (g), (i), (j), (k) of this section shall be applicable to the rider of every horse, mule or other riding animal ridden upon the public highway, to the end and effect that the same duties, rules and regulations imposed thereon upon the drivers or operators of vehicles upon the public highway, including the care to be exercised in driving or operating vehicles, the portion of the highway upon which they shall travel, the right of way as between vehicles passing or overtaking each other, or upon approaching intersections, the duty of giving way in favor of overtaking vehicles, the manner of turning at intersections and at other places upon the highway and of stopping or changing the course of the vehicles and the duties imposed upon operators or drivers of vehicles in passing railroad, interurban or street-cars, shall be imposed, and they are hereby imposed, upon the riders of animals upon the public highways.

(r) **Livestock on highway.** No person owning, or controlling the possession of, any horse, cow, mule, ass, sheep, goat, hog or other livestock, shall voluntarily or negligently permit such animal to stray upon or remain unaccompanied upon the public highway, or shall permit the tether or any portion thereof to which such animal may be attached, to lie across or upon any public highway, and no person shall feed, pasture or camp any such livestock upon any public highway between the hours of sunset and sunrise. [Amendment approved May 10, 1917; Stats. 1917, p. 400.]

§ 22. **Rate of speed. Warning signs at grade crossings. Establishing less than legal rate.** (a) Any person operating or driving a motor or other vehicle on the public highways shall operate or drive the same in a careful and prudent manner and at a rate of speed not greater than is reasonable and proper, having regard to the traffic and use of the highway, and no person shall operate or drive a motor vehicle or other vehicle on a public highway at such rate of speed as to endanger the life or limb of any person or the safety of any property; provided, that it shall be unlawful to operate or drive at a rate of speed in excess of thirty miles an hour; and provided, further, that in any event no person shall operate or drive a motor vehicle or other vehicle on any public

highway where the territory contiguous thereto is closely built up, at a greater rate of speed than twenty miles an hour, or in the business district of any incorporated city and county, city or town, at a greater rate of speed than fifteen miles an hour; provided, further, that no person shall operate or drive a motor vehicle or other vehicle on any public highway at a greater rate of speed than fifteen miles an hour in approaching any steam, electric or other railway crossing at grade, or in approaching or traversing an intersecting highway, or crossing or intersection of highways, or in approaching or going around corners or curves in the highway, when in any of the foregoing cases the operator's or chauffeur's view of the road or railway traffic is obstructed, but anything to the contrary herein notwithstanding, no person shall operate or drive a motor vehicle or other vehicle on any public highway at a greater rate of speed than fifteen mile an hour in traversing any steam, electric or other railway crossing at grade; provided, further, that the board of supervisors of any county and city and county within this state, and the board of trustees, city council or other governing body of every municipality within this state, within six months after the passage of this act, shall place and thereafter maintain warning signs on every public highway approaching a crossing at a grade of such highway and the tracks of any railway, at a reasonable distance, not less than three hundred feet, from such crossing, and on either side thereof. Such sign shall consist of a metal disc twenty-four inches in diameter, the field enameled white, with an enameled black border line one inch wide, and with an enameled black vertical and horizontal cross-line two and one-half inches wide; the reverse side of such disc to be colored black. In each of the upper quarters shall appear in black enamel the letter "R," five inches high, three and three-quarters inches wide, lines one inch stroke. Anyone defacing, injuring, knocking down or removing any such sign shall be guilty of a misdemeanor; provided, further, that the maximum rate of speed over any bridge, dam, trestle, causeway or viaduct as well as the maximum rate of speed over any state highway or portion of state highway may be established by the state highway commission at less than the rate established by law, when in the judgment of said commission the safety of persons using the highway or the protection of the highway shall be promoted thereby, but whenever any such different rate of speed is so established by said commission, the commission shall cause to be erected suitable signs to mark the location and limits of the highway to which said different rate of speed shall apply, and such signs shall be placed at a distance of not less than one hundred feet or at a greater distance than one hundred fifty feet from the highway or portion of highway or from the approaches of any bridge, dam, trestle, culvert, causeway or viaduct with respect to which such different rate of speed may be so established. In the case of a bridge dam, trestle, culvert, causeway or viaduct, such maximum rate of speed so established by said commission shall not be less than ten miles an hour, and in the case of any other highway or portion of highway, such maximum rate of speed so established shall not be less than fifteen miles an hour.

(b) **Rate of speed of vehicles carrying weight.** No motor or other vehicle carrying a weight in excess of nine thousand pounds, including

the vehicle, shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than twenty-five miles an hour; no motor or other vehicle carrying a weight in excess of twelve thousand pounds, including the vehicle, shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than fifteen miles an hour; no motor or other vehicle carrying a weight in excess of twenty-four thousand pounds, including the vehicle, shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than ten miles an hour; provided, however, that no motor vehicle or trailer equipped with tires made wholly or partly of metal shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than six miles an hour; provided, further, that any such motor vehicle or trailer, with tires made wholly or partly of metal, may be operated, driven, drawn or otherwise moved, subject to the other provisions of this act, up to ten miles an hour, if it be equipped with springs and if the rear wheels be not less than forty-six inches in diameter, with a bearing surface of not less than eighteen inches; and provided further, however, anything to the contrary herein notwithstanding, that no motor or other vehicle constructed or otherwise adapted for carrying loads weighing four tons or more, exclusive of such vehicle, shall be operated, driven, drawn or otherwise moved upon the public highway, whether laden or unladen, at a rate of speed exceeding fifteen miles an hour; and provided, further, that nothing contained in this subdivision shall apply to motor vehicles equipped with pneumatic tires.

(c) **Arrest.** In case of any person arrested for violation of the provisions of this section, unless such person shall demand that he be taken forthwith before the most accessible magistrate, the arresting officer shall take the name and address of such person and the number of his motor vehicle and notify him in writing to appear before a designated magistrate at a time and place to be specified in such writing at least five days subsequent to the date of such notice and upon the promise in writing of such person to appear at such time and place, such officer shall forthwith release him from custody. Any person willfully violating such promise shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(d) **Regulations by local authorities.** Limitations as to the rate of speed herein fixed shall be exclusive of all other limitations fixed by any law of this state of any political subdivision thereof. Local authorities shall have no power to enact, enforce or maintain any ordinance, rule or regulation in any way in conflict with, contrary to or inconsistent with the provisions of this act, or of any section or other subdivision thereof, and no such ordinance, rule or regulation of said local authorities heretofore or hereafter enacted shall have any force or effect, excepting, however, that (1) such powers as are now or may hereafter be vested in local authorities to enact ordinances and regulations, applicable equally and generally to all vehicles and other users of the highways, and providing for traffic or crossing officers or semaphores, to bring about the orderly passage of vehicles and other users of the public highways on certain portions thereof, where the traffic is

heavy and continuous, as well as (2) the powers now or hereafter vested in local authorities to license and to regulate the operation of vehicles offered to the public for hire, and to regulate the use of the highways for processions or assemblages, shall remain in full force and effect, and all ordinances, rules and regulations which may have been or which may be hereafter enacted in pursuance of such powers, shall remain in full force and effect; and provided, further, that local authorities may by general rule, ordinance or regulation, exclude vehicles from any cemetery or ground used for the burial of the dead, or exclude vehicles used solely or principally for commercial purposes from any park or part of a park system where such general rule, ordinance, or regulation is applicable equally and generally to all other vehicles used for the same purpose; provided, that at the entrance, or at each entrance if there be more than one, to such cemetery or park from which vehicles are so excluded, there shall have been posted a sign plainly legible from the middle of the public highway on which such cemetery or park opens, plainly indicating such exclusion and prohibition; and provided, further, that the local authorities of any city, town, or city and county may impose additional restrictions to those herein contained applicable to vehicles exclusively used in the carrying of merchandise or articles of freight and of a capacity in excess of one ton in weight and may designate certain streets whereon heavy laden vehicles may be excluded or declared to be "one way" streets, may further, restrict, or prohibit, the use of trailers. [Amendment approved May 10, 1917; Stats. 1917, p. 404.]

§ 23. Revocation of operator's license—Suspension of license. [Repealed 1917; Stats. 1917, p. 407.]

§ 24. Operator's license. Application. Valid one year. Badge. Application of minor. (a) It shall be unlawful for any person to operate or drive a motor vehicle upon the public highway unless licensed by the department as hereinafter provided; provided, however, that the requirements of this section shall not apply to the operators or drivers of any implements of husbandry temporarily drawn, propelled or moved on the public highway. Before operating a motor vehicle upon the public highway, application for a license to operate such vehicle shall be made by mail or otherwise to the department upon a blank to be prepared and furnished on request by said department. To each person shall be assigned some distinguishing number or mark and the department shall issue to the licensee a certificate in such form as the department shall determine; it shall contain the distinguishing number or mark assigned to the licensee, his name, age, place of residence, business address if any, and a brief description of the licensee for the purpose of identification, and such other information as the said department shall deem necessary. Every person licensed to operate motor vehicles as aforesaid, whether as a chauffeur or operator, shall indorse his usual signature in the space on the license certificate provided for the purpose, immediately upon the receipt of said certificate and his license shall not be valid until the certificate is so indorsed. Licenses, whether to chauffeurs or operators, shall be valid during the calendar year only in which issued. The department shall furnish to every chauffeur licensed a suit-

able metal badge with the distinguishing number assigned to him stamped thereon, without extra charge therefor, such badge to have stamped thereon the words "Registered Chauffeur No. ——, Cal." with the said license number and year of issue inserted therein. This badge shall thereafter be worn by such chauffeur, affixed to his clothing in a conspicuous place, at all times when he is operating or driving a motor vehicle upon the public highway, and the license certificate issued to each chauffeur or operator, under the provisions of this section, shall be carried by the licensee at all times when he is operating or driving a motor vehicle upon the public highway and shall be produced by him for inspection upon request by any peace officer. In case of the loss of such badge or certificate a duplicate will be issued by the department on the filing of an affidavit showing the fact of loss, and on payment of a fee of one dollar to the department in the case of a badge and fifty cents in case of a certificate. Duplicate license certificates shall be issued by the department to operators other than chauffeurs upon application therefor, whether in case of loss or otherwise, upon payment of a fee of twenty-five cents to the department. Applications for the annual renewal of licenses by chauffeurs shall be accompanied by the fee required by section seven of this act, but in case of operators no fee shall be required upon such renewal of license. No chauffeur's license or badge shall be issued to any applicant under the age of eighteen years; provided, that it shall be unlawful for any person to cause or knowingly to permit his or her child, ward or employee to operate or drive a motor vehicle upon the public highway, whether as a chauffeur or operator, without first having obtained such license as is hereinbefore specified; provided, that the application to the department of a minor to operate or drive a motor vehicle, whether as chauffeur or operator, shall not be granted by the department unless the parent or parents having the custody of such applicant or the guardian of such applicant shall have joined in said application by signing the same; and provided, further, that any negligence of a minor, so licensed, in operating or driving a motor vehicle upon the public highway, whether as chauffeur or operator, shall be imputed to the person or persons who shall have signed the application of such minor for said license, which person or persons shall be jointly and severally liable with such minor for any damages caused by such negligence. [Amendment approved May 10, 1917; Stats. 1917, p. 407.]

§ 26. **Use of fictitious name, etc.** (a) No person shall use a fictitious name in applying for such chauffeur's or operator's license, nor shall any chauffeur or operator licensed as herein provided voluntarily permit any other person to possess or use his license certificate or badge; nor shall any person while operating or driving a motor vehicle use or possess any license certificate or badge belonging to another person.

(b) No person shall display or cause or permit to be displayed, or have in his possession, any canceled, revoked, suspended, altered or fictitious registration number plate, registration seal, registration certificate, operator's license certificate, chauffeur's license certificate or chauffeur's badge, as the same are respectively provided for in this act.

(c) No person shall knowingly buy, sell, receive, dispose of, conceal or have in his possession any motor vehicle from which the manufac-

turer's serial number or motor number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealment or misrepresenting the identity of said motor vehicle. [Amendment approved May 10, 1917; Stats. 1917, p. 408.]

§ 27. In effect after December 31, 1917. Nonresident operator. Registration of certificate. No person shall operate or drive a motor vehicle or cause a trailer to be drawn upon a public highway after the thirty-first day of December, one thousand nine hundred seventeen, nor shall any owner of a motor vehicle or of any trailer permit such motor vehicle or trailer to be so operated, driven or drawn after said date, unless the requirements of this act relative to the registration of motor vehicles and trailers and to licensing of chauffeurs and operators shall have been in all respects complied with; provided, however, that a nonresident operator or chauffeur who has complied with the provisions of the country or state of his residence relative to the operation of motor vehicles and who, while operating a motor vehicle upon the highways of this state shall wear such badge and carry such license certificate as may have been assigned to him in the country or state of his residence, shall be exempt from license hereunder for a period not to exceed three months in any calendar year; and provided, further, that the provisions of this act relative to registration and the payment of the fees therefor and the display of registration number plates and seals shall not apply to a motor vehicle or trailer owned by a nonresident, other than a foreign corporation doing business in this state, who is only sojourning within this state; provided, that the registration number plate assigned and furnished for said motor vehicle or trailer for the current calendar year by the country or state of which such owner is a resident shall be displayed on such motor vehicle or trailer substantially as provided in this act for vehicles registered pursuant to the provisions hereof; provided, however, that a nonresident owner of a motor vehicle or trailer so registered in such other country or state shall, not later than twenty-four hours after commencing to operate said vehicle, or to cause or permit the same to be operated, on any public highway within this state, apply to the department for registration of such vehicle, said application to be made upon a form to be prepared and to be furnished on request by the department, and shall state in addition to such other matters as may be required by the department, the name and postoffice and residence address of the applicant, together with the registration number of said vehicle in the country or state in which the same shall be registered, which country or state shall be designated by the applicant in said application. Upon receipt of said application, the department, if satisfied of the facts stated therein, shall, without charge to the applicant, register said motor vehicle or trailer and shall furnish to the applicant a registration certificate or device, of a distinctive form to be determined by the department, indicating that the holder thereof has complied with the requirements of this act and containing such other matter as may be deemed suitable by the department, which certificate or device shall be valid not to exceed three months from the date of its issuance, at the end of which period it shall be returned by said owner,

transportation prepaid, to the department. In case of a motor vehicle, said certificate or device shall be carried, at all times while said motor vehicle is being operated or driven upon the public highways, in plain sight in or upon said motor vehicle, in the manner required of resident owners with respect to registration certificates, and in case of a trailer, such certificate or device shall be displayed in such manner as the department shall determine. The department shall file said applications for registration by nonresident owners, and shall suitably index said applications and registrations, which files and index shall be open to inspection by the public during reasonable business hours. [Amendment approved May 10, 1917; Stats. 1917, p. 409.]

§ 28. **Using without owner's consent.** It shall be unlawful for any person to drive or operate, or cause to be driven or operated, upon the public highway any motor vehicle not his own, whether with or without intent to steal the same, in the absence of the owner thereof and without such owner's consent; provided, such consent shall not be implied in any instance because of the fact that upon a previous occasion such owner had consented to the use of the same or another motor vehicle by such person. Any person violating any of the provisions of this section shall be punished by imprisonment in the county jail for not less than one month nor more than one year or in state prison for not less than one year nor more than ten years. [Amendment approved May 10, 1917; Stats. 1917, p. 410.]

§ 32. **Penalty for violation.** (a) Excepting as in this act otherwise provided, or where a different penalty is expressly fixed by this act, any person violating any of its provisions, or knowingly making a false statement or knowingly concealing a material fact or otherwise committing a fraud in an application for the registration of a vehicle, or in an application for an operator's or chauffeur's license, shall be guilty of a misdemeanor, and upon conviction thereof, unless in this act otherwise provided, shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(b) **Order of state highway commission to suspend or revoke license. Witnesses, etc. Fees. Enforcement of orders.** Immediately upon receipt by the department of information concerning the conviction of any person for the violation of section seventeen of this act, or concerning the third conviction within any calendar year of any person for the violation of section twenty-two of this act, the department shall transmit said information to the state highway commission, whereupon said highway commission, or any member thereof, shall fix a time and place for a hearing, and the person so convicted shall be served with a written notice, at least ten days prior to the date of said hearing, to appear and show cause, at such hearing, why his license to operate a motor vehicle upon the public highways should not be suspended or revoked. If upon such hearing it is determined that there is good and sufficient reason therefor, findings and an order shall be made by the commission or by the person or persons holding such hearing on behalf of the commission, to the effect that such license shall be revoked, or shall be

suspended for a limited time to be determined by the commission, which findings and order shall be transmitted to the department, and the department shall thereupon forthwith revoke said license, or suspend the same, in accordance with said findings and order; provided, that in like manner said commission may, upon its own initiative or upon the sworn information of any person, in its discretion order the suspension or revocation of any operator's or chauffeur's license (1) if satisfied, upon such hearing as hereinbefore provided for, that such operator or chauffeur is a reckless driver or that he is an incompetent or unfit person to operate a motor vehicle because of a mental or physical infirmity or disability, or (2) when said operator or chauffeur shall have been directly concerned in an accident upon the public highway resulting in the death of any person.

If in any case the respondent shall fail to appear at the time and place fixed for any such hearing as is provided in this section, he shall be in default, and if in the opinion of the commission, or of the person or persons holding such hearing on behalf of the commission, there is sufficient reason therefor, the license of the respondent may be ordered revoked or suspended, whereupon the department shall upon notice of such order, revoke or suspend, as the case may be, such license.

Upon the suspension or revocation of any chauffeur's or operator's license, the department shall demand the surrender of the license certificate, and any duplicates thereof that may have been issued, and also the license badge, if any, and it shall be unlawful for any person whose license has been suspended or revoked as herein provided to fail or neglect forthwith to surrender to the department any such certificates or badge in his possession or under his control.

Said commission, or any member thereof, or any person authorized to hold the hearings hereinbefore provided for, may summon witnesses in behalf of the state and may administer oaths and take testimony, may cause depositions to be taken, and may order the production of books, papers, agreements and documents.

The fees for the attendance and travel of witnesses shall be the same as for witnesses before the superior court, and shall be paid by the state upon demand by the commission filed with the controller.

The supreme court, any district court of appeal or any superior court shall have jurisdiction, upon the application of the commission, or of the motor vehicle department, to enforce all lawful orders of the commission under this section.

(c) **Suspension of operator's license.** In addition to any or all other punishments provided in this act and imposed by the court upon any person for violation of any of the provisions of this act, the court may, in its discretion, suspend an operator's or chauffeur's license for a period of not to exceed thirty days, in which case the court shall take up the license certificate of such person together with, in case of a chauffeur, the license badge, and shall forward them to the department.

(d) **Return of license.** Upon the expiration of the period of suspension of any license as hereinbefore in this section provided for, the department shall return to the licensee his license certificate, or in its discretion may issue to him a new certificate, and such license shall be

valid for the remainder of the current calendar year, subject to the other provisions of this act; and in like manner the department shall return to any chauffeur whose license badge may have been forwarded to the department upon suspension of his license, such license badge or issue to such licensee a new badge. [Amendment approved May 10, 1917; Stats. 1917, p. 410.]

§ 33. **Revocation of operator's license. Suspension of license.** [Repealed 1917; Stats. 1917, p. 412.]

§ 34. **Motor vehicle fund created. Operator's license fund. Disposition of receipts. Revolving fund. Improvement of highway. Report by boards of supervisors.** There is hereby created in the state treasury a fund which shall be known as the "motor vehicle fund." All moneys received by the department under any of the provisions of this act must be paid into the state treasury within twenty-four hours after the receipt thereof and shall be deposited to the credit of the motor vehicle fund, but if at any time such payment cannot be made because of the intervention of a Sunday or a holiday, then such money shall be paid into the state treasury before twelve o'clock noon of the first business day following such Sunday or holiday; provided, however, that there is also hereby created in the state treasury a fund which shall be known as the "operators' license fund," and the moneys received by the department for operators' or chauffeurs' licenses shall not be credited to the motor vehicle fund but to the credit of said operators' license fund. One-half of the net receipts under this act except those credited to the operators' license fund shall be paid from the motor vehicle fund to the counties from which the moneys were received, as determined by the places of residence of the persons to whom the registration certificates are issued, and all such amounts so returned shall be paid into the road funds of the several counties receiving the same, and shall be expended by such counties exclusively in the construction and maintenance of roads, bridges and culverts in said counties respectively. In the event that any county has not established a road fund, its proportion of said net receipts shall be retained by the state until provision for such road fund has been made, and it shall then be paid over. In the months of January and July of each year the department shall make to the controller a report setting forth the gross and net receipts for the preceding six months, and thereafter the controller shall draw his warrants upon the motor vehicle fund in favor of the county treasurer of each county for the amount to which such county is entitled; provided, nevertheless, that the controller shall not draw such warrant in favor of any county which theretofore shall not have established a road fund or which shall be delinquent in its annual report to the state department of engineering as hereinafter required. Of the moneys in said motor vehicle fund, when such action has been authorized by the board of control, the department may draw, without at the time furnishing vouchers and itemized statements, sums not to exceed in the aggregate ten thousand dollars, said sums so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year, or at any other time upon demand of the board of control, the moneys so drawn must be accounted for and substantiated by

vouchers and itemized statements submitted to and audited by the board of control and by the controller. All moneys remaining in the motor vehicle fund after the expenditures herein authorized, in addition to all sums that have been heretofore or that may be appropriated hereafter by the legislature for the same purpose, shall be expended under the direction of the state department of engineering for the maintenance and improvement of the state roads and highways under the jurisdiction of said department of engineering, and for the maintenance and improvement of roads and highways in state parks subject to the approval of the official or officials charged by law with the management and control of such parks, such moneys to be so drawn from said motor vehicle fund for the purpose of such maintenance and improvement upon warrants executed by the state controller upon demand made by the state department of engineering, and allowed and audited by the board of control. So much of the motor vehicle fund as may be necessary is hereby appropriated to be expended by the department in carrying out the provisions of this act; provided, however, that there shall not be so expended out of the motor vehicle fund in any one year more than ten per cent of said fund; and provided, further, that the board of supervisors of each county in the state shall make an annual report to the state department of engineering not later than the first day of March in each year, upon forms to be provided by the state department of engineering, showing the amount of moneys received out of the motor vehicle fund during the preceding calendar year and the disposition of said moneys, specifying in such detail as may be required by said department of engineering the roads, bridges and culverts constructed or maintained out of said moneys and the sums applied to the several items of such construction or maintenance; and provided, further, that whenever said report shall not have been duly filed in the manner and form hereby provided at or before the time hereinbefore specified, no further warrants shall be drawn upon the motor vehicle fund in favor of the county treasurer of such delinquent county until said report has been furnished. [Amendment approved May 10, 1917; Stats. 1917, p. 412.]

§ 35. **Disposition of fines.** (a) All fines or forfeitures collected in cases of conviction for violation of any of the provisions of this act following arrests by any officer employed by an incorporated municipality, except a city and county, shall be paid to the treasurer of the county in which such municipality is situated and such moneys shall belong to the several counties, to be used by them, when authorized and permitted by law, in the discretion of the respective boards of supervisors in the construction, maintenance and improvement of roads, streets, bridges and culverts within the limits of the incorporated municipalities of said counties, and for no other purpose; provided, however, that when not so authorized or permitted by law to use such moneys for said purposes, said counties shall receive said moneys for the benefit of, and said moneys shall belong to, the several incorporated municipalities in said counties respectively, excepting as herein otherwise provided, and at quarterly intervals the supervisors shall apportion and pay over said moneys to said municipalities according to their

population ascertained in the manner provided by law, which moneys shall be expended by such municipalities solely in the construction, maintenance and improvement of streets, bridges and culverts within the city limits along routes directly connecting interurban public highways entering such cities respectively; provided, however, anything to the contrary herein notwithstanding, that no (1) incorporated city and county, (2) city of more than twenty-five thousand population, or (3) city operating under a freeholder's charter and enforcing or seeking to enforce any ordinance, rule or regulation in conflict with or covering the same or any part of the ground covered by this act, except as expressly permitted therein, shall be entitled to share in said moneys.

(b) Any and all other fines or forfeitures collected by or in any court for violation of any of the provisions of this act, whether by a justice of the peace, police court, city recorder's court, city justice of the peace, or otherwise, shall be paid to the treasurer of the county or incorporated city and county in which the court is held, and said moneys shall be used by the several counties and incorporated cities and counties solely in the construction, maintenance and improvement of roads, streets, bridges and culverts within their respective limits, and for no other purpose. [Amendment approved May 10, 1917; Stats. 1917, p. 414.]

§ 37. **Motor vehicle department created. Salaries.** There is hereby created a department to be known as the motor vehicle department of California. The chief officer shall be known as the superintendent, who shall be a civil executive officer and shall be appointed by the governor and shall hold office at the pleasure of the governor. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars. He shall receive an annual salary of three thousand dollars to be paid monthly upon a warrant of the controller. He shall have the power to appoint one chief clerk, who, shall be a civil executive officer, at an annual salary of two thousand one hundred dollars; one cashier, at an annual salary of two thousand one hundred dollars; and, with the approval of the board of control, such additional employees as the proper and economical conduct of the business of the department may demand, and shall fix and prescribe their duties, compensation and term of employment; provided, that such employees shall include field deputies or inspectors, upon whom are hereby conferred, for the purposes of the enforcement of this act, the powers now or hereafter vested by law in peace officers, and who may exercise said powers in any portion of the state or of any political subdivision thereof, but solely in the enforcement of the provisions of this act. The cashier shall execute to the people of the state a bond in the penal sum of five thousand dollars. The salaries herein provided for shall be payable monthly, and the expenditures authorized by this act, shall be made upon the certificate of the superintendent of the department, allowed and audited by the board of control, and the warrant of the state controller. [Amendment approved May 10, 1917; Stats. 1917, p. 415.]

§ 42. **Copies printed.** [Repealed May 10, 1917; Stats. 1917, p. 415.] The amendatory act of 1917 contained the following sections:

§ 28. **Printed copies of act.** There shall be printed two hundred fifty thousand copies of said vehicle act, as amended by this act, which shall be distributed to the public on request, without charge, by the department. [Amendment approved May 10, 1917; Stats. 1917, p. 415.]

§ 29. **In effect when.** Excepting the provision of section eleven hereof requiring that the light displayed upon a trailer shall illuminate the number plate carried upon such trailer, each and all of the provisions of sections one, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, twenty-one, twenty-two, twenty-three, twenty-five, twenty-seven, twenty-eight and twenty-nine of this act, together with such provisions of section twenty-six of this act as relate to the salaries of the officers or employees of the department, and such other provisions of this act as relate to or require the preparation or purchase of forms and supplies, and other work incident to the registration of motor vehicles and trailers and the licensing of operators and chauffeurs, shall go into effect ninety days after the final adjournment of this session of the legislature, and the remainder of this act shall go into effect at midnight on the thirty-first day of December, in the year one thousand nine hundred seventeen. [Amendment approved May 10, 1917; Stats. 1917, p. 415.]

ACT 2331d.

An act providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by automobiles, jitney buses, auto trucks, stages and auto stages; providing for the issue by incorporated cities and towns, cities and counties, and counties of permits for the operation of such automobiles, jitney buses, auto trucks, stages and auto stages; empowering incorporated cities and towns, cities and counties, and counties to enact ordinances for the supervision and regulation of automobiles, jitney buses, auto trucks, stages and auto stages and providing penalties for the violation of such ordinances; defining transportation companies and providing for the supervision and regulation thereof by the railroad commission; providing for the enforcement of the provisions of this act and for the punishment of violations thereof; and repealing all acts and parts of acts inconsistent with the provisions of this act.

[Approved May 10, 1917. Stats. 1917, p. 330. In effect July 27, 1917.]

§ 1. **Words and phrases defined.** (a) The term "corporation," when used in this act, means a corporation, a company, an association or a joint stock association.

(b) The term "person," when used in this act, means an individual, a firm or a copartnership.

(c) The term "transportation company," when used in this act, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or

managing any automobile, jitney bus, auto truck, stage or auto stage used in the transportation of persons or property as a common carrier for compensation over any public highway in this state between fixed termini or over a regular route and not operating exclusively within the limits of an incorporated city or town or of a city and county; provided, that the term "transportation company," as used in this act, shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, in so far as they own, control, operate or manage taxicabs, hotel buses or sight-seeing buses, or any other carrier which does not come within the term "transportation company" as herein defined.

(d) The term "public highway," when used in this act, means every public street, road or highway in this state.

(e) The words "between fixed termini or over a regular route," when used in this act, mean the termini or route between or over which any corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, usually or ordinarily operate any automobile, jitney bus, auto truck, stage or auto stage, even though there may be departures from said termini or route, whether such departures be periodic or irregular. Whether or not any automobile, jitney bus, auto truck, stage or auto stage is operating "between fixed termini or over a regular route" within the meaning of this act shall be a question of fact and the finding of the railroad commission thereon shall be final and shall not be subject to review.

§ 2. **Jitney bus, etc., must be operated according to law.** No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property for compensation on any public highway in this state except in accordance with the provisions of this act.

§ 3. **Permit to operate.** (a) No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property as a common carrier for compensation on any public highway in this state between any fixed termini between which or over any route over which such corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, are not actually operating in good faith on May 1, 1917, unless a permit has first been secured as herein provided.

(b) **Application. Hearing. Permit issued. Matters in permit. Power of cities, city and county and counties to regulate.** Application for such permit shall be made by such corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, to the legislative or other governing board or body of each incorporated city or town, city and county, and county within or through which applicant intends to operate. Such application shall be in writing, verified by applicant, and shall specify the following matters:

(1) The name and address of applicant and the names and addresses of its officers, if any.

(2) The public highway or highways over which and the fixed termini or the regular route, if any, between which or over which applicant intends to operate.

(3) The kind of transportation, whether passenger or freight or both, in which applicant intends to engage, together with a brief description of each vehicle which applicant intends to use, including the seating capacity thereof if for passenger traffic or the tonnage if for freight traffic.

(4) A proposed time schedule, if any.

(5) A schedule or tariff showing the passenger fares or freight rates to be charged between the several points or localities to be served.

(c) Upon the filing of said application, the legislative or other governing board or body with which the same has been filed may in its discretion fix a time and place for a hearing on said application, which time shall not be less than five days subsequent to the filing of said application. No application shall be granted without a hearing. When a time and place for a hearing, have been fixed, the applicant shall, at least three days prior to said hearing, cause to be published in a newspaper of general circulation in the incorporated city or town, city and county, or county within which applicant desires to exercise a permit, a notice reciting the fact of the filing of said application, together with a statement of the time and place of the hearing of said application.

(d) At the time specified in said notice or at such later time as may be fixed by said legislative or other governing board or body, a public hearing upon said application shall be held by or under the direction of said legislative or other governing board or body. After such hearing, said legislative or other governing board or body may issue the permit as prayed for or refuse to issue the same, or may issue the same with modifications and upon such terms and conditions as in its judgment the public convenience and necessity may require.

(e) Each permit issued under the provisions of this act shall contain the following matters:

(1) The name of the grantee.

(2) The public highway or highways over which, and the fixed termini, if any, between which the grantee is permitted to operate.

(3) The kind of transportation, whether passenger or freight, in which the grantee is permitted to engage, together with a statement of the number and of the maximum seating or tonnage capacity of the vehicles which the grantee is permitted to operate.

(4) The term for which the permit is granted, which term shall not exceed five years.

(5) Such additional matters as said legislative or other governing board or body may deem necessary or proper to be inserted in said permit.

No permit issued under the provisions of this act may be assigned or transferred without the consent of the granting authority.

(f) Each incorporated city or town, city and county, and county shall have the power, by ordinance, to supervise and regulate every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any automobile, jitney bus, auto truck, stage or auto stage, used for the

transportation of persons or property for compensation over any public highway within their respective territorial limits, and in the exercise of such power may provide for the licensing of all drivers, the filing of indemnity bonds, the enactment of traffic rules and regulations, the regulation of the rates, service and safety of all such corporations and persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, and all other matters affecting the relationship between such carriers and the traveling and shipping public, with power to prescribe penalties for the violation of such ordinances; provided, that the power in this act granted to incorporated cities and towns, cities and counties, and counties shall at all times be subject to and in no instance be construed to impair the judisdiction of the railroad commission of the state of California as conferred by the constitution of this state or by this act.

(g) **Power to prevent use of highways without permit.** Nothing in this act contained shall be construed as in any way limiting or impairing the power of any incorporated city or town, city and county, or county, to prevent corporations and persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged on May 1, 1917, in the transportation of persons or property for compensation over any public highway or highways in this state from thereafter using any public highway or highways within the territorial limits of such incorporated city or town, city and county, or county, unless they shall first have secured from such incorporated city or town, city and county, or county, a franchise or permit for the use of such public highway or highways in accordance with the organic law of such incorporated city or town, city and county or county.

§ 4. **Power of railroad commission over transportation companies.** The railroad commission of the state of California is hereby vested with power and authority to supervise and regulate every transportation company in this state; to fix the rates, fares, charges, classifications, rules and regulations of each such transportation company; to regulate the accounts, service and safety of operations of each such transportation company; to require the filing of annual and other reports and of other data by such transportation companies; and to supervise and regulate transportation companies in all other matters affecting the relationship between such companies and the traveling and shipping public. The railroad commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations applicable to any and all transportation companies. The railroad commission, in the exercise of the jurisdiction conferred upon it by the constitution of this state and by this act, shall have power and authority to make orders and to prescribe rules and regulations affecting transportation companies, notwithstanding the provisions of any ordinance or permit of any incorporated city or town, city and county, or county, and in case of conflict between any such order, rule or regulation and any such ordinance or permit, the order, rule or regulation of the railroad commission shall in each instance prevail.

§ 5. **Certificate from railroad commission.** No transportation company shall hereafter exercise any right or privilege under any franchise

or permit hereafter granted by any incorporated city or town, city and county, or county, without having first obtained from the railroad commission a certificate declaring that public convenience and necessity require the exercise of such right or privilege, but no such certicate shall be required of any transportation company as to the fixed termini between which or the route over which it is actually operating in good faith on May 1, 1917. A transportation company may apply for a certificate of public convenience and necessity in advance of securing any franchise or permit for the use of the public highways constituting the proposed route. The railroad commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require.

The railroad commission may at any time for a good cause suspend and upon notice to the grantee of any certificate and opportunity to be heard revoke, alter or amend any certificate issued under the provisions of this section.

§ 6. Order authorizing issue of stock and bonds. Application of public utilities act. Fees. No transportation company may issue any stock or stock certicate, or any bond, or any note or other evidence of indebtedness payable at a period of more than twelve months after the date thereof in such an amount that the aggregate amount of notes or other evidences of indebtedness at any one time outstanding shall exceed the amount of two thousand five hundred dollars, unless such transportation company, in addition to the other requirements of law, shall first have secured from the railroad commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied and that, in the opinion of the railroad commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that, except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. Such order may be made, in the discretion of the railroad commission, either with or without a public hearing. Except as in this section otherwise provided, the provisions of section fifty-two of the public utilities act referring to the purposes for which stocks and stock certificates, bonds, notes and other evidences of indebtedness, may be issued and the application of and the accounting for the proceeds thereof, the powers and duties of the railroad commission and the rights and duties of public utilities with reference thereto, the legal status of stocks and stock certicates and of bonds, notes and other evidences of indebtedness, issued without an order of the railroad commission then in effect, and the relationship of the state of California to such stocks and stock certificates, and such bonds, notes and other evidences of indebtedness, shall apply to and govern the issue of stocks and stock certificates, and of bonds, notes and other evidences of indebtedness, of transportation

companies with the same force and effect as though section fifty-two of the public utilities act were restated in this section with the substitution of the words "transportation company" for the words "public utilities" and of the words "transportation companies" for the words "public utilities." The provisions of section fifty-seven of the public utilities act referring to fees to be charged and collected by the railroad commission for certificates authorizing the issue of bonds, notes or other evidences of indebtedness of public utilities shall apply to and govern authorizations by the railroad commission of the issue by transportation companies of bonds, notes or other evidences of indebtedness.

§ 7. **Application of public utilities act.** In all respects in which the railroad commission has power and authority under the constitution of this state or this act, applications and complaints may be made and filed with the railroad commission, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review or mandate filed with the supreme court of this state, considered and disposed of by said court, in the manner, under the conditions and subject to the limitations and with the effect specified in the public utilities act.

§ 8. **Violation.** Every officer, agent, or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any port or provision thereof, of the railroad commission, or who procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or any part or provision thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

§ 9. **Foreign or interstate commerce.** Neither this act nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the acts of congress.

§ 10. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 11. **Repealed. Stats. 1905, p. 777, not to apply.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. The provisions of an act entitled "An act providing for the sale of street railroad and other franchises in counties and municipalities and providing

conditions for the granting of such franchises by legislative or other governing bodies, and repealing conflicting acts (approved March 22, 1905, Stats. 1905, p. 777)," are declared not to apply to the use of highways for the kind of transportation herein regulated.

TITLE 361.

MUNICIPAL CORPORATIONS.

ACT 2348.

An act to provide for the organization, incorporation, and government of municipal corporations.

[Approved March 13, 1883. Stats. 1883, p. 93.]

Amended 1885, pp. 127, 134; 1887, p. 12; 1889, pp. 371, 389; 1891, pp. 21, 28, 54, 55, 114, 233; 1893, p. 299; 1895, pp. 24, 159, 266; 1897, pp. 89, 175, 183, 196, 403; 1899, p. 98; 1901, pp. 12, 18, 70, 269, 293, 656; 1903, pp. 40, 93, 135, 336; 1905, pp. 16, 45, 72, 73, 88, 89, 408; 1907, p. 272; 1909, pp. 148, 420, 937; 1911, pp. 58, 253, 316, 359, 842; Ex. Sess. 1911, pp. 131, 135; 1913, pp. 10, 15, 31, 32, 33, 34, 375; 1915, pp. 170, 331, 828, 1304; 1917, pp. 1528, 1663, 1666.

The amendments of 1917 follow:

§ 764. Powers of board of trustees of city. The board of trustees of such city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have any power to sell or convey any portion of any waterfront; but may rent such waterfront for a term not exceeding ten years for the purpose of erecting bathhouses thereon.

3. To contract for supplying the said city with water, and gas, and electric lights or other lights for municipal purposes; to purchase, lease, construct or otherwise acquire waterworks, electric plants, and gas works or plants or any of same, and all machinery, conductors, lands, appliances and all other things needed therefor, and to supply said city with, and to sell to the inhabitants of said city, gas, electric light or other light, and heat, and power; provided, that no such purchase or lease shall be made unless the question of acquiring such property is submitted to the voters of such city in the same manner as other propositions, at a general or special municipal election, and a majority of the electors, voting at such election shall vote in favor of such proposition.

4. To establish, build and repair bridges; to establish, lay out, alter keep open, open, improve and repair streets, sidewalks, alleys, squares, and other public highways and places within the city, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places.

5. To establish, construct and maintain drains and sewers, and to provide by ordinance for a general system of sewers, and the expense of building and maintaining the same.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

7. To impose and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll tax, not exceeding two dollars, and no other road poll tax shall be collected within the limits of such city; that any member of a volunteer fire company in such city shall be exempt from such tax.

8. To impose and collect an annual license, not exceeding two dollars on every dog owned or harbored within the limits of the city.

9. To levy and collect annually a property tax, which shall be apportioned as follows: For the general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; for school fund, not exceeding twenty-five cents on each one hundred dollars; for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year for all purposes to which such funds are applicable shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such city.

10. To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of licenses upon the same, and to provide for the collection of the same by suit or otherwise.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and to remove obstructions therefrom; to improve the waterfront of the city, and to construct and maintain embankments and other works to protect such city from overflow.

12. To erect and maintain buildings for municipal purposes.

13. To permit, under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, electricity, or other power thereon, and the laying of gas or water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of telephone, telegraph and electric light lines therein.

14. In its discretion to divide the city, by ordinance, into a convenient number of wards, not exceeding five, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, nor within twenty months after the same shall have been established or altered. Whenever such city shall be divided into wards, the board of trustees shall designate by ordinance the number of trustees to be elected from each ward, apportioning the same in proportion to the population of such ward; and thereafter the trustees so designated shall be elected by the qualified electors resident in such ward, or by the general vote of the whole city, as may be designated in such ordinance.

15. To appoint and remove such policemen and such other subordinate officers as they may deem proper, and to fix their duties and compensation.

16. To impose fines, penalties, and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars, nor the term of such imprisonment exceed three months.

17. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other property or works within the city.

18. To establish fire limits, and the same to alter at pleasure; to regulate or prevent the erection of wooden or other buildings or structures of combustible materials; to regulate the construction of all buildings, shades, awnings, signs, or any structure of a dangerous or unsafe character; to provide, by regulation, for the prevention and summary removal of all filth and garbage in the streets, sloughs, alleys, backyards or public grounds of such city, or elsewhere therein; to regulate or prohibit the storage of gunpowder and combustible or explosive materials of every kind and nature within the city limits, and to prescribe the limits in which the same may be kept or stored.

19. To do and perform any and all other acts and things necessary and proper to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary, and other regulations as do not conflict with general laws.

20. To levy and collect a property tax in addition to that now authorized by law for the purpose of improving, repairing, and maintaining any and all streets, avenues, lanes, alleys, courts, places and sidewalks of said municipality, which have heretofore been accepted by said municipality, under and pursuant to the provisions of any street improvement act, providing for the acceptance of streets by said municipality, which such tax shall not exceed thirty cents on each one hundred dollars of the assessed value of all real and personal property within such municipality. [Amendment approved June 1, 1917; Stats. 1917, p. 1663.]

§ 765. **Enacting clause of ordinances.** The enacting clause of all ordinances shall be as follows: "The board of trustees of the city (or town) of —— do ordain as follows:" Every ordinance must be signed by the president of the board of trustees, attested by the clerk, and must be published by said board at least three times in a newspaper of general circulation published in such city or town, or if there be none published in such city or town, then every ordinance must be posted in at least three public places therein; provided, that emergency ordinances subject to the referendum must be published at least one time. [Amendment approved June 1, 1917; Stats. 1917, p. 1666.]

§ 862. **Powers of city trustees.** The board of trustees of said city shall have power:

1. **Pass ordinances.** To pass ordinances not in conflict with the constitution and laws of this state or of the United States.

2. **Acquire real estate.** To purchase, lease, or receive such real estate situated inside or outside of the city limits and personal property as

may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city or town; provided, they shall not have power to sell or convey any portion of any waterfront.

3. **Supply water for city use.** To contract for supplying the city or town with water for municipal purposes, or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such city or the inhabitants, or for irrigating purposes therein.

4. **Manage highways.** To establish, build and repair bridges; to establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, and other public highways, squares and parks, and places within the city or town, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or on any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places; and in the exercise of the powers herein granted to expend, in their discretion, the ordinary annual income and revenue of the municipality in payments of the costs and expenses of the whole or any part of such work or improvement.

4a. **Open streets.** To acquire property required for the opening and laying out of any street, alley or lane from the point where the continuity of such street, alley or lane ceases, to the point where such street, alley or lane again commences, to lay out and improve said street, alley or lane; and to pay the cost and expense incurred in the acquisition of the required property of the general fund of the city.

5. **Sewers.** To construct, establish, and maintain drains and sewers.

6. **Fire protection.** To provide fire-engines and all other necessary and proper apparatus for the prevention and extinguishment of fires.

7. **Collect street poll tax.** To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll tax, not exceeding two dollars; and no other road poll tax shall be collected within the limits of the city.

8. **Dog tax.** To impose and collect an annual license not exceeding two dollars on every male dog, and four dollars on every female dog owned or harbored within the limits of the city.

9. **Property tax.** To levy and collect annually a property tax, which shall not, without the assent of two-thirds of the qualified electors of such city or town voting at an election to be held for that purpose exceed one dollar on each one hundred dollars; provided, however, that in cities which have constructed or may hereafter construct embankments, seawalls, or other works to protect such cities from overflow, said board of trustees may levy and collect annually, a property tax which shall not exceed twenty cents on each one hundred dollars, which, when collected, shall be kept in a separate fund and used for the construction and maintenance of embankments, seawalls, or other works to protect such city from overflow and for no other purpose.

10. **License business.** To license, for the purpose of revenue and regulation, all and every kind of business authorized by law and transacted and carried on in such city or town, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

11. **Improve rivers and streams.** To improve the rivers and streams flowing through such city or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the waterfront of the city; including the ocean front thereof, and to build and construct breakwaters, jetties, and seawalls; to construct and maintain embankments and other works, to protect such city from overflow and to acquire, own, construct, maintain, and operate on any lands bordering on any navigable bay, lake, inlet, river, creek, slough, or arm of the sea within the corporate limits of such city or contiguous thereto, wharves, chutes, piers, breakwaters, bathhouses, and life-saving stations.

12. **Municipal buildings.** To erect and maintain buildings for municipal purposes, and to acquire and maintain cemeteries, situated inside or outside of said city.

13. **Acquire public utilites.** To acquire, own, construct, maintain, and operate street railways, telephone and telegraph lines, gas and other works for light, power, and heat; public libraries, museums, gymnasiums, parks, and baths, and to grant franchises for the construction of public utilities as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other power thereon, and the laying of gas and water pipes in the public streets, and to permit the construction and maintenance of telegraph and telephone lines therein.

14. **Impose fines.** To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance; to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed three hundred dollars, nor the term of imprisonment exceed three months.

15. **Compel labor of prisoners.** To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property, or works within the city.

16. **Fire limits.** To establish and maintain fire limits, and regulate building and construction and removal of buildings within the municipality.

16a. **Regulate construction of buildings.** To regulate the construction of and the materials used in all buildings, chimneys, stacks and other structures; to prevent the erection and maintenance of insecure or unsafe building walls, chimneys, stacks, or other structures, and to provide for their summary abatement, destruction, or removal; to provide for the abatement, destruction or removal of unsightly or partially destroyed buildings; to regulate the materials used in and the method of construction of foundations and foundation walls, the manner of construction and location of drains and sewers, the materials used in wiring buildings or other structures for the use of electricity for light-

ing, power, heat or other purposes and materials used for piping buildings or other structures for the purpose of supplying the same with water, gas, or electricity, and the manner of so doing; to prohibit the construction of buildings and structures which do not conform to such regulations.

16b. **Regulate advertising, etc.** To regulate the exhibition, posting or carrying of banners, placards, posters, cards, pictures, signs or advertisements in or on the street, or on or upon buildings, fences, billboards or other structures; or on or upon any pole in any sidewalk, alley, street, lane, court, park or other public place; to regulate the suspension of banners, flags, signs, advertisements, posters, pictures, or cards across or over any sidewalk, alley, street, lane, court, park, or other public place, or such suspension from fences, poles, houses, or other structures; to prohibit and prevent encroachments upon or obstructions in or to any sidewalk, street, alley, lane, court, park or other public place, and to provide for the removal of such encroachment or obstruction.

16c. **Compel removal of dirt, weeds, etc.** To compel the owner, lessee or occupant of buildings, grounds, or lots to remove dirt, rubbish, weeds and rank growths from the sidewalk opposite thereto, and from the building or grounds, and on his default, after such notice as the board of trustees may prescribe, to authorize the removal or destruction thereof by some officer of the city at the expense of such owner, lessee or occupant, and by such procedure as the board of trustees may prescribe, to make such expense a lien upon such buildings or grounds.

17. **Issue subpoenas.** To issue subpoenas for the attendance of witnesses, or the production of books or other documents, for the purpose of producing evidence or testimony in any action or proceeding pending before the board of trustees, which subpoenas must be signed by the president of the board of trustees, and attested by the city clerk and may be served in the same manner as subpoenas are served in civil actions. Whenever any person duly subpoenaed to appear and give evidence, or to produce any books or any documents as herein provided, shall neglect or refuse to appear, or to produce such books or documents, as required by such subpoena, or shall refuse to testify before such board, or to answer any questions which a majority thereof shall decide to be proper and pertinent, it shall be the duty of the president of the board to report the fact to the judge of the superior court of the county, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was isued. On the return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

18. **Music and promotion.** To expend such sum as the board of trustees shall deem proper, not to exceed five per cent of the property tax levy in any one fiscal year, for music and promotion.

19. **Other acts.** To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act. [Amendment approved June 1, 1917; Stats. 1917; p. 1528.]

§ 863. **Enacting clause of ordinances.** The enacting clause of all ordinances shall be as follows: "The board of trustees of the city (or town) of —— do ordain as follows:" Every ordinance must be signed by the president of the board of trustees and attested by the clerk and must be published by said board at least once in a newspaper of general circulation published and circulated in such city or town; provided, that if there be no such newspaper published and circulated in such city or town, then all ordinances must be posted in at least three public places therein; provided, further, that in all cities or towns which have been incorporated less than one year, all ordinances may be either published or posted as aforesaid, as the board of trustees may determine; and provided, further, that in no case shall the price charged for such publication of any ordinances exceed the customary rate charged by such newspaper for the publication of legal notices of a private character. [Amendment approved June 1, 1917; Stats. 1917, p. 1666.]

ACT 2371.

An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof.

[Became a law under constitutional provision without governor's approval, February 25, 1901. Stats. 1901, p. 27.]

Amended 1907, pp. 570, 609, 634; 1909, p. 720; 1913, pp. 13, 29; 1915, pp. 97, 1453; 1917, p. 79.

The amendment of 1917 follows:

§ 6½. **Cancellation of unsold bonds.** At any time after three years after the date of any election, heretofore or hereafter held, at which an issue of any of the bonds herein provided has or shall have been authorized, the legislative body of the municipality may, by ordinance duly adopted by a two-thirds vote of all of the members of such legislative body, determine that no part of such bond issue, or, if a portion of the bonds so authorized at such election shall have been sold, that no part of the remainder of such issue then remaining unsold, shall be thereafter issued or sold, and upon the taking effect of such ordinance the authority to issue the bonds authorized at such election and described in such ordinance shall cease, and the whole or that portion of the bonds issued pursuant thereto remaining unsold and described in such ordinance shall become void.

ACT 2371a.

An act to validate bonds issued and sold, or to be issued and sold for the purpose of the acquisition or construction of any public improvement work or public utility in any portion of a municipality.

[Approved May 4, 1917. Stats. 1917, p. 229. In effect July 27, 1917.]

§ 1. Bonds issued by portion of municipality validated. Where, in any portion of a municipality of this state proceedings have been taken for the purpose of creating an indebtedness, to be represented by bonds of such district, the proceeds from the sale of which are to be used for the acquisition or construction therein of any public improvement work or public utility which the municipality of which such district forms a part is authorized by law to acquire or construct, all acts and proceedings leading up to and including the issuance of such bonds, if they have heretofore been sold, and all such acts and proceedings heretofore had, although the bonds are not yet sold, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of said district and of the legislative body of such municipality to issue such bonds is hereby ratified, confirmed and declared, and the bonds already are declared to be and the bonds hereafter sold shall be, the legal and binding obligation of and against such district for which such bonds have heretofore, or may hereafter be, issued, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds; provided, that this act shall not operate to legalize any bonds of any district that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds of the qualified electors in said district voting at an election held for the purpose of voting upon the question of the issuance of such bonds, or any bonds which have been sold for less than their par value.

ACT 2374.

An act to provide for the alteration of the boundaries of and for the annexation of territory to incorporated towns and cities, and for the incorporation of such annexed territory in and as a part of such municipalities, and for the districting, government, and municipal control of annexed territory.

[Approved March 19, 1889. Stats. 1889, p. 358.]

Amended 1905, p. 551; 1911, pp. 857, 1459; 1917, p. 419.

The amendment of 1917 follows:

§ 1. Procedure for annexing new territory to cities. Election on question. The boundaries of any incorporated town or city, whether heretofore or hereafter formed, incorporated, reincorporated, organized, or reorganized, may be altered and new territory annexed thereto, incorporated and included therein, and made a part thereof, upon proceedings being had and taken as in this act provided. The council, board of trustees, or other legislative body of any such municipal corporation, upon receiving a written petition therefor containing a description of the new territory asked to be annexed to such corporation, and signed

by not less than one-fifth in number of the qualified electors of such municipal corporation, computed upon the number of votes cast at the last general municipal election held therein, must, without delay, submit to the electors of such municipal corporation and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such new territory shall be annexed to, incorporated in, and made a part of said municipal corporation. Such question may be so submitted at the next general municipal election to be held in such municipal incorporation, or it may be so submitted prior to such general election either at a special election called therein for that purpose, or at any other municipal election therein, except an election at which the submission of such question is prohibited by law; and such legislative body is hereby empowered to and it shall be its duty to cause notice to be given of such election by the publication of a notice thereof in a newspaper printed and published in such municipal corporation, and also in a newspaper, if any such there be, printed and published outside of such corporation, but in the county in which the territory so proposed to be annexed is situated, in each case at least once a week for a period of four successive weeks next preceding the date of such election. Such notice shall distinctly state the proposition to be submitted, i. e., that it is proposed to annex to, incorporate in, and make a part of such municipal corporations the territory sought to be annexed, specifically describing the boundaries thereof; and in said notice the qualified electors of said municipal corporation, and the qualified electors residing in said territory so proposed to be annexed, shall be invited to vote upon such proposition by placing upon their ballots the words "For annexation" or "Against annexation," or words equivalent thereto. Such legislative body is hereby empowered, and it shall be its duty, to establish, and in such notice of election designate the voting precinct or precincts, and the place or places at which the polls will be opened in such territory so proposed to be annexed, and also in such municipal corporation. And such place or places shall be that or those commonly used as voting places within such municipal corporation, and also that or those commonly used within such new territory, if any such there be. Such legislative body is empowered to, and it shall, appoint the officers of such election, who shall be, for each voting place in such municipal corporation, and for each voting place in said new territory, two judges and one inspector, each of whom shall be a qualified elector of the voting precinct in which he is appointed to act as an officer of such election. The ballots used at such election, the opening and closing of the polls, and the holding and conducting of such election, shall be in conformity, as far as may be, with the general laws of this state concerning elections; and the judges and inspectors of such election shall immediately on the closing of the polls, count the ballots, make up and certify the tally sheets of the ballots cast at their respective polling places, seal, and then immediately return the same as below provided, doing so, as nearly as practicable, in the manner provided in the election laws of this state; but the ballots, tally sheets, and returns shall be so returned to and deposited with the clerk of such legislative body. Such legislative body shall, at the time provided for its regular meeting next after the expiration

of three days from and after the date of said election, meet and proceed to canvass said returns; and such canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments, if possible, until said canvass is completed. Said canvass by such legislative body shall be conducted and completed as follows: The returns of the votes cast in said outside territory, so proposed to be annexed shall be canvassed separately; and the returns of the votes cast inside of said municipal corporation shall be canvassed separately. Immediately upon the completion of such canvass, said legislative body shall cause a record thereof to be made and entered upon its minutes, showing the whole number of votes cast in such outside territory, the whole number of votes cast in such municipal corporation, the number thereof cast in each in favor of annexation, and the number thereof cast in each against annexation; and it shall appear from such canvass that a majority of all the votes cast in such outside territory, and a majority of all the votes cast inside of said municipal corporation, are in favor of annexation, the clerk, or other officer performing the duties of clerk, of such legislative body, shall promptly make and certify, under the seal of said municipal corporation, and transmit to the secretary of state, a copy of said record, so entered upon said minutes, together with a statement showing the date of said election and the time and result of said canvass, which document shall be filed by the secretary of state immediately upon the receipt thereof. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed shall be deemed and shall be complete, and thenceforth such annexed territory shall be, to all intents and purposes, a part of such municipal corporation, except only that no property within such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation, excepting as provided in section one *a* of this act. No territory which, at the time such petition for such proposed annexation is presented to such legislative body, forms any part of any incorporated town or city, shall be annexed under the provisions of this act.

ACT 2374a.

An act to provide for the alteration of the boundaries of and for the annexation of territory to municipal corporations, for the incorporation of such annexed territory in and as a part thereof, and for the districting, government and municipal control of such annexed territory. [Approved June 11, 1913. Stats. 1913, p. 587.]

Amended 1915, p. 305; 1917, p. 26.

The amendment of 1917 follows:

§ 3. **Should majority in outside territory favor. Question submitted in city.** If it shall appear from the canvass of the returns of the election held in the territory proposed to be annexed to any municipal corporation, as provided in section two of this act, that a majority of all the votes cast in such outside territory on the question of such annexation are in favor of annexation, such legislative body may, by ordi-

nance, approve such annexation, or, in case of failure to so approve, by ordinance, such annexation, shall then submit to the electors of such municipal corporation the question whether such territory shall be annexed to, incorporated in and made a part of such municipal corporation. Such question may be so submitted at the next general municipal election to be held in such municipal corporation, or it may be so submitted prior to such general election, either at a special election called therein for that purpose, or at any other special municipal election therein, except an election at which the submission of such question is prohibited by law. Whenever such question is submitted at any election in such municipal corporation, such question shall be stated in the notice of such election and on the ballots to be used at such election, and the electors shall vote thereon, in the same manner as hereinbefore provided in the case of the election in the territory proposd to be annexed. And whenever such question is submitted at any such municipal election, general or special, as above provided, it shall be submitted and voted upon as other questions are required by law to be submitted and voted upon at such elections, except in particulars otherwise in this act set forth; and the laws applicable to and governing the time and manner of giving notice, conducting, holding, canvassing the returns, and declaring the result of any such election shall apply to and govern the submission of such question to the electors of such municipal corporation at any such election. [Amendment approved April 2, 1917; Stats. 1917, p. 26.]

§ 4. **Record of votes cast. Should majority favor. Annexation complete. Territory of city may not be annexed.** Immediately upon the completion of the canvass of the returns of any election in any municipal corporation at which the question of annexation of new territory thereto was submitted, as in this act provided the legislative body of such municipal corporation shall cause a record to be made, and entered upon its minutes, showing the total number of votes cast in such municipal corporation upon such question at such election, the number thereof cast in favor of annexation, and the number thereof cast against annexation. If it shall appear from the canvass of the returns of such election, that a majority of the qualified electors of such municipal corporation voting on the question of such annexation are in favor thereof, the clerk or other officer performing the duties of a clerk of the legislative body of such municipal corporation shall make and certify, under the seal thereof, and transmit to the secretary of state, a copy of the record of the canvass of the returns of the election in such new territory and of the election in such municipal corporation at which the question of the annexation of the said new territory was submitted and entered upon its minutes as aforesaid, together with a statement showing the dates of such elections in said new territory and in said municipal corporation, and the time and the result of the canvass of the returns of such elections, and containing a description of such territory. If such annexation has been approved by ordinance of such legislative body, as herein authorized, a certified copy of such ordinance, giving the date of its passage, shall be substituted in said document in place of the copy of the record of the canvass of the returns of the

election in such municipal corporation provided for in case such annexation was not approved by ordinance. Said document, in either case, shall be filed by the secretary of state immediately upon the receipt thereof. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed and described therein, shall be deemed to be and shall be complete, and thenceforth such annexed territory shall be, to all intents and purposes, a part of such municipal corporation, except only that no property within such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation, excepting as hereinafter provided. No territory which, at the time of the presentation of a petition to the legislative body of any municipal corporation for the annexation of such territory thereto forms any part of any municipal corporation, shall be annexed under the provisions of this act. [Amendment approved April 2, 1917; Stats. 1917, p. 27.]

§ 5. **Question of taxing annexed territory to pay indebtedness of city. Proposition submitted. Notice to specify improvements, etc. Majority favoring. Annexation complete. When property subject to taxation.** Whenever any municipal corporation to which it is proposed to annex territory under the provisions of this act shall have incurred, or authorized the incurring of, any bonded indebtedness for the acquisition, construction or completion of any municipal improvement or improvements, the petition presented to the legislative body of such municipal corporation, as provided in section two of this act, may contain a request that the question to be submitted to the electors residing in the territory proposed by such petition to be annexed to such municipal corporation, shall be, whether such new territory shall be annexed to, incorporated in, and made a part of, said municipal corporation, and the property therein be, after such annexation, subject to taxation, equally with the property within such municipal corporation, to pay any specified portion of such bonded indebtedness of such municipal corporation, outstanding at the date of the filing of such petition or theretofore authorized. If such request shall be made in said petition, proceedings shall be had thereon, and an election shall be called and held in the territory proposed to be annexed, the same in all respects as upon a petition presented under the provisions of section two of this act, excepting that the notice of election shall distinctly state the proposition to be submitted to wit: that it is proposed to annex to, incorporate in, and make a part of, such municipal corporation, the territory sought to be annexed, specifically describing the boundaries thereof, and that the property therein, shall, after such annexation, be subject to taxation, equally with the property within such municipal corporation, to pay such specified bonded indebtedness of such municipal corporation, outstanding at the date of the said annexation, or indebtedness theretofore authorized and to be represented by bonds of such municipal corporation thereafter to be issued. The said notice shall, in general terms, specify the improvement or improvements for which such indebtedness was so incurred or authorized, and state the amount or amounts of such indebted-

ness already incurred, outstanding at the date of the first publication of such notice, and the amount or amounts of such indebtedness theretofore authorized, and to be represented by bonds thereafter to be issued, and the maximum rate of interest payable, or to be payable on such indebtedness; and upon the canvass of the returns of the votes cast in any territory proposed to be annexed at any election held therein under the provisions of this section, if it shall appear that a majority of all the votes cast in such outside territory are in favor of annexation, the legislative body of such municipal corporation may, by ordinance, approve such annexation; or, in case of failure to so approve, by ordinance, such annexation, shall submit to the electors thereof the question whether such territory shall be annexed to, incorporated in and made a part of such municipal corporation. Such question may be so submitted to the electors of such municipal corporation in the same manner as provided in section three of this act, and if it shall appear from the canvass of the returns of the election in such municipal corporation at which such question shall have been submitted, that a majority of the qualified electors thereof voting upon the question of such annexation are in favor thereof, like proceedings shall thereupon be taken, and with the same force and effect as provided in sections three and four of this act. The provisions of sections two, three and four of this act, so far as applicable, shall apply to annexation under the provisions of this section. From and after the date of the filing in the office of the secretary of state of the document containing a copy of the record of the proceedings for the annexation of such new territory to such municipal corporation, as provided in section four of this act, the annexation of such territory so proposed to be annexed, and described therein, shall be deemed, and shall be, complete, and thenceforth such annexed territory shall be, to all intents and purposes a part of such municipal corporation, and the property within such annexed territory shall be taxed to pay the bonded indebtedness or liability of such corporation, specified in said notice, equally with the property within such municipal corporation as it existed prior to the filing of such petition.

The property in any such new territory annexed to any municipal corporation, under the provisions of this act, after twelve o'clock meridian of the first Monday in March, and before the completion of the assessment-roll of such municipal corporation, shall be subject to taxation for municipal purposes for the fiscal year following said first Monday in March. [Amendment approved April 2, 1917; Stats. 1917, p. 28.]

ACT 2383a.

An act to provide for the consolidation of municipal corporations.

[Approved June 11, 1913. Stats. 1913, p. 577.]

Amended 1915, p. 311; 1917, p. 30.

The amendment of 1917 follows:

§ 3. Should majority favor. Question submitted to larger city. If it shall appear from the canvass of the returns of the election mentioned in section two of this act, that a majority of all the votes cast in the municipal corporation in which such election was held, upon the ques-

tion of consolidation submitted at such election, are in favor of such consolidation, the clerk of the legislative body of such municipal corporation, shall forthwith make, under the seal thereof, and deliver to the clerk of the legislative body of the other of the municipal corporations proposed to be so consolidated, to wit, the municipal corporation having the greater population, a copy in duplicate of the record of such canvass, together with a statement of the proposition submitted at such election. The clerk of the legislative body of such municipal corporation so having the greatest population shall present one such copy of said record and said statement to such legislative body without delay, and retain the other to be filed as hereinafter provided. Upon receiving the copy of such record so presented such legislative body may, by ordinance, approve such consolidation, or, in case of failure to so approve, by ordinance, such consolidation, shall then submit to the electors of such other of the municipal corporations so proposed to be consolidated and having the greatest population, the question whether such consolidation shall be effected. Such question may be so submitted at the next general municipal election to be held in such municipal corporation, or it may be so submitted prior to such general election, either at a special election called therein for that purpose, or at any other special municipal election therein, except an election at which the submission of such question is prohibited by law. Whenever such question is submitted at any election in such municipal corporation, such question shall be stated in the notice of such election and on the ballots to be used at such election, and the electors shall vote thereon, in the same manner as hereinbefore provided in the case of the election mentioned in section two of this act. And whenever such question is submitted at any such municipal election, general or special, as provided in this section, it shall be submitted and voted upon as other questions are required by law to be submitted and voted upon at such elections, except in particulars otherwise in this act set forth; and the laws applicable to and governing the time and manner of giving notice, conducting, holding, canvassing the returns, and declaring the result of any such election shall apply to and govern the submission of such question to the electors of such municipal corporation at any such election. [Amendment approved April 2, 1917; Stats. 1917, p. 30.]

§ 4. **Declaration of result. Should majority favor. Consolidation complete.** Immediately upon the completion of the canvass of the returns of any election in the municipal corporation having the greater population of two municipal corporations proposed to be consolidated, at which the question of such consolidation was submitted, as provided in section three of this act, the legislative body of such municipal corporation having the greater population shall declare the result of such election, and shall cause a record to be made and entered upon its minutes, stating the proposition submitted, and showing the total number of votes cast in such municipal corporation upon the question of such consolidation at such election, the number thereof cast in favor of consolidation, and the number thereof cast against consolidation. If it shall appear from the canvass of the returns of such election, that a majority of the qualified electors of such municipal corporation, voting on the ques-

tion of such consolidation, are in favor thereof, the clerk or other officer performing the duties of clerk of the legislative body of such municipal corporation shall promptly make and certify, under the seal thereof, and transmit to the secretary of state, a copy of the record of the canvass of the returns of the election in such municipal corporation having the greater population, at which the question of such consolidation was submitted, and entered upon its minutes as aforesaid, and one copy theretofore delivered to him as aforesaid, of the record of the canvass of the returns of the election in the other of the municipal corporations proposed to be consolidated, together with a statement showing the date of each such election in each such municipal corporation, and the time and result of the canvass of the returns of each such election. If such consolidation has been approved by ordinance of such legislative body, as herein authorized, a certified copy of such ordinance, giving the date of its passage, shall be substituted in said document in place of the copy of the record of the canvass of the returns of the election in such municipality provided for in case such consolidation was not approved by ordinance. Said document, in either case, shall be filed in his office by the secretary of state immediately upon receipt thereof. Upon the filing of said document in the office of secretary of state, such consolidation shall be deemed to be complete and such municipal corporations shall be deemed to be consolidated and the one of such municipal corporations not having the greatest population, shall be deemed to be, and shall be, annexed and joined to and merged into the one of said municipal corporations having the greatest population. [Amendment approved April 2, 1917; Stats. 1917, p. 31.]

§ 5. Question of taxation to pay bonded indebtedness. Notice to specify improvements. Canvass of returns. Majority favoring. Question submitted to larger city. When property subject to taxation. Whenever any two municipal corporations are proposed to be consolidated, under the provisions of this act, and either or both of such municipal corporations shall have theretofore incurred, or authorized the incurring of, any bonded indebtedness for the acquisition, construction or completion of any municipal improvement or improvements, the petition provided for in section two of this act may contain a request that the question to be submitted to the electors of the municipal corporation proposed to be consolidated shall be, whether such municipal corporation shall be consolidated, as hereinbefore in this act provided, and the property in such municipal corporations, shall after such consolidation, be subject to taxation at the same rate, to pay any of such bonded indebtedness specified in said petition; provided, however, that if such petition contains a request that the property in such municipal corporations be, after such consolidation, subject to taxation to pay all of the bonded indebtedness incurred or authorized of such municipal corporations, such bonded indebtedness and improvements for which such bonded indebtedness was incurred or authorized may be described in such petition and in all other proceedings hereunder as "the bonded indebtedness of —— (insert the names of the municipal corporations)," without specifying the improvements. If such request be made in such petition, proceedings shall be had thereon and the question of such consolidation shall be

submitted to the electors in such municipal corporation not having the greatest population, the same in all respects as upon a petition presented under the provisions of section two, excepting that the notice of election shall, in addition to the matters required by said section, distinctly state that it is proposed that the property in such municipal corporations shall be taxed at the same rate to pay such bonded indebtedness set forth in said petition. Except as hereinabove provided, the said notice shall, in addition, in general terms specify the improvement or improvements for which such indebtedness was so incurred or authorized, and state the amount or amounts of such indebtedness already incurred, outstanding at the date of the first publication of such notice, and the amount or amounts of such indebtedness theretofore authorized, and to be represented by bonds thereafter to be issued, and the maximum rate of interest payable, or to be payable on such indebtedness.

The returns of such election held in pursuance of such notice shall be canvassed, as provided in section two of this act, by the legislative body of the municipal corporation in which such election was held, and immediately upon the completion of such canvass, such legislative body shall declare the result of such election and shall cause a record of such canvass to be made and entered upon its minutes, as provided in said section two, and there shall be included in such record a statement of such bonded indebtedness incurred and outstanding, or authorized, as set forth in the notice of such election, for the payment of which the property in said municipal corporations shall be subject to taxation as set forth in the notice of such election. If it shall appear from such canvass that a majority of all votes cast at such election upon the question of such consolidation, are in favor thereof, the clerk of such legislative body in which such election was held shall forthwith deliver a copy in duplicate of such record and statement to the clerk of the legislative body of the other of the municipal corporations so proposed to be consolidated, and having the greatest population. Thereupon the legislative body of such other municipal corporation having the greatest population may, by ordinance, approve such consolidation; or, in case of failure to so approve, by ordinance, such consolidation, shall submit the question of such consolidation to the electors of such other municipal corporation at an election therein in the same manner in all respects as provided in this section for submitting to the electors in such municipal corporation not having the greatest population, and, in other respects, in the same manner as provided in section three of this act. After the passage of said ordinance approving such consolidation, or, if such consolidation was not approved by ordinance if, upon the canvass of the returns of such election it shall appear therefrom, that a majority of the votes cast at such election in such other municipal corporation having the greatest population, upon the question of such consolidation, are in favor thereof, the same proceeding shall be had as provided in section four of this act, and such consolidation shall be deemed to be, and shall be, completed in the same manner, and with the same effect as in said section provided. After the completion of the consolidation of such municipal corporations, as hereinbefore provided, the property in said municipal corporations so consolidated shall

thereafter be taxed at the same rate, to pay such bonded indebtedness set forth in said petition.

The property in any such municipal corporations consolidated, under the provisions of this act, after twelve o'clock meridian of the first Monday in March and before the completion of the assessment-roll of such municipal corporation having the greater population, shall be subject to taxation for municipal purposes by said consolidated city for the fiscal year following said first Monday in March. [Amendment approved April 2, 1917; Stats. 1917, p. 32.]

ACT 2389k.

An act granting to any city of the state whose corporate limits include or bound upon any harbor, bay, estuary, or other navigable body of water, the power to improve the same and to establish, acquire, construct, improve and maintain in, upon and along the waters thereof works for use in connection therewith.

[Approved April 6, 1917. Stats. 1917, p. 72. In effect July 27, 1917.]

§ 1. **Cities authorized to maintain piers, etc. Property rights not affected.** Any city of this state whose corporate limits include or bound upon any harbor, bay, estuary, or other navigable body of water, is hereby granted power to establish, acquire, construct, improve and maintain in, upon and along the waters of any such harbor, bay, estuary, or other navigable body of water, piers, docks, wharves, bulkheads, quays, and other necessary works for use in connection therewith, and power to construct, improve, dredge, deepen or straighten, channels, turning basins, canals, slips and waterways to, from and along any of the aforesaid works, and connecting with any other navigable water either within or without the limits of such city, and to do any and all other things necessary or convenient to the establishment, improvement, conduct and maintenance of a harbor, and in furtherance of commerce and navigation. Nothing herein, however, shall be deemed or construed to affect or limit the use and enjoyment by persons, firms or corporations of their property or property rights; nor shall anything in this act be construed or deemed to grant to any city the right to destroy, injure, impair or interfere with any private or quasi-public property or property rights, leasehold or otherwise, or to the use and enjoyment thereof.

ACT 2389 l.

An act providing for hours of rest for persons employed by municipal corporations during more than one hundred twenty hours per week, and prescribing penalties for violations hereof.

[Approved June 1, 1917. Stats. 1917, p. 1644.]

§ 1. **Hours of rest for certain municipal employees.** Any person in the employ of a municipal corporation and whose hours of labor exceed one hundred twenty hours in a calendar week of seven days, shall be entitled to be off duty at least three hours during every twenty-four hours for the purpose of procuring meals and no deduction of salary shall be made by reason thereof.

§ 2. **Penalty.** Any officer or agent of a municipal corporation having supervision and control of the employees referred to in section one hereof who shall violate the provisions hereof shall be guilty of a misdemeanor and shall be punishable as provided in section nineteen of the Penal Code.

TITLE 367a.

NATIONAL CITY.

ACT 2420.

An act conveying certain tide-lands and lands lying under inland navigable waters, situate in the bay of San Diego to the city of National City, in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof.

[Approved March 21, 1917. Stats. 1917, p. 18. In effect July 27, 1917.]

Whereas, since the admission of California into the Union, all tide-lands along the navigable waters of this state and all lands lying beneath the navigable waters of the state have been and now are held in trust by the state for the benefit of all the inhabitants thereof for the purpose of navigation, commerce and fishing; and

Whereas, it is the duty of the state to govern, administer and control such lands and to improve and develop navigation, commerce and fishing thereon and thereover; and

Whereas, the state has not the general power of alienation of such lands, but may, when the interests of commerce, navigation and fishing require it, convey to municipalities limited and defined areas of such lands with the power to govern, control, improve and develop the same in the interest of all the inhabitants of the state; and

Whereas, the conveyance to the city of National City of the lands hereinafter described, together with the right to govern, control, improve and develop the same will result in great advantage and benefit to all the inhabitants of the state, it is provided:

§ 1. **Tide-lands granted to National City.** There is hereby granted and conveyed to the city of National City, in the county of San Diego, state of California, all of the lands situate on the city of National City side of said bay, lying and being between the line of mean high tide and the pier-head line in said bay, as the same has been or may hereafter be established by the federal government, and between the prolongation into the bay of San Diego to the pier-head line of the boundary line between the city of National City and the city of San Diego, and the prolongation into the bay of San Diego to the pier-head line of the boundary line between the city of National City and the city of Chula Vista.

§ 2. **Use of lands.** The city of National City shall have and there is hereby granted to it the right to make upon said premises all improvements, betterments and structures of every kind and character, proper, needful and useful for the development of commerce, navigation and fishing, including the construction of all wharves, docks, piers, slips,

and the construction and operation of a municipal belt line railroad in connection with said dock system.

§ 3. **No discrimination in rates.** No grant, conveyance or transfer of any character shall ever be made by the city of National City of the lands described in section one, or of any part thereof, but the said city shall continue to hold said lands and the whole thereof unless the same revert or be receded to the state of California. The harbor of National City shall remain always a public harbor and the said city shall never charge or permit to be charged on any of the premises by this act conveyed any unreasonable rate or toll, nor make nor suffer to be made any unreasonable charge, burden or discrimination. In the event of a violation of any of the provisions of this act, the said lands and the whole thereof shall revert to the state of California.

§ 4. **Maximum term of lease.** The city of National City may lease for a term not exceeding twenty-five years any wharves, docks or piers constructed by it, and all such leases so executed shall reserve to the board of trustees of the city of National City, the right and privilege, by ordinance, to annul, change or modify such leases as in its judgment may seem proper. The aggregate amount of all wharves, docks and piers so leased by said city shall never exceed seventy-five per cent of all the wharves, docks and piers actually constructed.

§ 5. **Conditions of lease.** The city of National City, may lease not to exceed an aggregate of seventy-five per cent of the lands conveyed to it by this act, for a term not to exceed twenty-five years and upon which wharves, docks or piers have not been actually constructed, and, except by consent of the board of trustees of the city of National City under an ordinance of such board duly adopted, such leases shall not be assignable or transferable, nor shall any lessee have the right to sublet the leased premises or any part thereof, and all such leases so executed shall reserve to the board of trustees of the city of National City, the right and privilege, by ordinance to annul, change or modify such leases as in its judgment may seem proper; provided, however, that nothing in this act contained shall operate as a limitation upon the right and authority of the harbor commission of the state of California, at any time prior to the city of National City issuing its bonds as required in section six hereof, of leasing any of the lands herein granted and conveyed to said National City, and the right and authority to enter into such leases at any time prior to issuing of such bonds, is hereby expressly conferred upon said harbor commission.

§ 6. **Harbor improvement by city.** The foregoing conveyance is made upon the condition that the city of National City shall, within five years from the approval of this act, exclusive of such time as said city may be restrained from so doing by injunction issued out of any court of this state or of the United States, and exclusive of such further delay as may be caused by unavoidable misfortune or great public or municipal calamity, issue its bonds for harbor improvement purposes in an amount of not less than one hundred thousand dollars, and shall, within five years after the approval of this act, exclusive of the time in this section

hereinbefore mentioned, commence the work of such harbor improvement, and the said work and improvement shall be prosecuted with such diligence, that not less than one hundred thousand dollars shall be expended thereon within five years from the approval of this act. If said bonds be not issued or said work be not prosecuted and completed as and in the manner herein provided, then the lands by this act conveyed to the city of National City shall revert to the State of California.

§ 7. **State's right to use docks.** The state hereby reserves unto itself at all times, the reasonable use of and access to all wharves, docks, piers, slips and quays hereafter constructed under the provisions of this act, for any vessel or water craft owned, leased, or operated by the state.

TITLE 369a.

NAUTICAL SCHOOL.

ACT 2436.

An act to establish a nautical school at the port of San Francisco, to provide for the conduct and maintenance thereof, to make an appropriation therefor, and to authorize the governor to request and to receive aid from the United States in compliance with the provisions of an act of congress approved March 4, 1911.

[Approved May 14, 1917. Stats. 1917, p. 527. In effect July 27, 1917.]

§ 1. **"California state nautical school" established.** There is hereby established at the port of San Francisco a nautical school to be known as "the California state nautical school," for the instruction of pupils in navigation, steamship-marine engineering, and all matters pertaining to the proper construction, equipment and sailing of vessels, or any particular branch thereof.

§ 2. **School board.** The governor, the president of the state board of education, and the president of the state board of harbor commissioners shall constitute the nautical school board, which shall be the governing body of the school hereby established. The expenses incurred by the members of said board while engaged in the business of the nautical school shall be refunded to them from the appropriation herein provided.

§ 3. **Duties of board.** The said nautical school board shall provide and maintain at the nautical school, for the instruction and training of pupils in the science and practice of navigation, accommodations for the school on board a proper vessel, shall purchase and provide books, stationery, apparatus and supplies needed in the work of the school, shall appoint and remove instructors and other necessary employees and determine their number and compensation, shall fix the terms and conditions upon which pupils shall be received and instructed in the school, and be dismissed or discharged therefrom, and shall establish all regulations necessary for the proper management and conduct of the school and for carrying out efficiently the purposes of this act.

§ 4. **Use of United States vessels.** The nautical school board may receive from the United States government and use for the accommo-

dation of the school, such vessel or vessels as the secretary of the navy may furnish. The governor is hereby authorized and directed to apply in writing to the secretary of the navy for a suitable vessel of the navy, with all her apparel, charts, books and instruments of navigation for the use of the school hereby established, and to request that the President of the United States detail proper officers of the navy as superintendents or instructors in the said school.

§ 5. **Nautical school fund.** There is hereby created the nautical school fund, which shall consist of such money as shall be appropriated from time to time by the legislature, and such sum as may be received from year to year from the government of the United States for the purpose of maintaining the school hereby established in compliance with the provisions of an act of congress entitled "An act for the establishment of marine schools and for other purposes," approved March 4, 1911. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the establishment of said school and for its maintenance during the sixty-ninth and seventieth fiscal years, the sum of twenty-five thousand dollars, which shall become available when the nautical school board has received from the secretary of the navy a suitable vessel of the navy for the use of said nautical school.

§ 6. **Vouchers.** The moneys hereby appropriated shall be expended in accordance with law upon vouchers certified by the superintendent of the nautical school and approved by the nautical school board.

§ 7. **Report.** A report of the conduct of the affairs of said nautical school, including a statement of the moneys expended in its establishment and maintenance, shall be presented to the legislature at its convening for the forty-third session and at each biennial session thereafter.

TITLE 373.

NET CONTAINER BILL.

ACT 2453.

An act to provide for the indicating of the net quantity of foodstuffs and stuffs intended to be used or prepared for use as food for human beings when sold or offered or exposed for sale in containers and providing penalties for the violation thereof. [Approved May 24, 1913. Stats. 1913, p. 247.]

Amended 1915, p. 1263; 1917, p. 87.

The title of the act was amended in 1917 to read as follows:

An act to provide for the indicating of the net quantity of foodstuffs and stuffs intended to be used or prepared for use as food for human beings, and medicine, when sold or offered or exposed for sale in containers, and providing for the indicating of quantity in the sale of commodities in respect to which there exists a definite trade custom, and providing penalties for the violation thereof.

The remainder of the amendment follows:

§ 5. **Designation of quantity.** The designation of the quantity of the commodity required by section four of this act shall be in terms of

weight, measure or numerical count, subject however to the following provisions:

(a) The quantity of the contents so marked shall be the amount of food or stuff in the package.

(b) If the designation is by weight it shall be in terms of avoirdupois pounds and ounces; if designation is by liquid measure, it shall be in terms of the United States gallon of two hundred thirty-one cubic inches and its customary subdivisions, i. e., in gallons, quarts, pints, or fluid ounces; if designation is by dry measure, it shall be in terms of the United States standard bushel, and its customary subdivisions, i. e., in bushels, half-bushels, pecks, quarts, pints or half-pints; provided, that, by like method, such designations may be in terms of the metric system of weight or measure.

(c) The quantity of solids shall be designated in terms of weight, and of fluids in terms of measure, except in case of an article in respect to which there exists a definite trade custom, in such case the designation shall be in terms of weight, or measure, or numerical count, in accordance with such custom.

(d) The quantity of the contents shall be designated in terms of weight or measure, unless the container be marked by numerical count and such numerical count gives accurate information as to the quantity of the food in the package. When designation is by numerical count it shall be in English words or Arabic numerals.

(e) The quantity of the contents may be stated in terms of minimum weight, minimum measure or minimum count, but in such cases the designation must approximate the actual quantity and there shall be no tolerance below the stated minimum.

(f) The quantity of viscous or semi-solid foods, or of a mixture of solids and liquids, may be stated in terms of weight and measure; provided, that such solids and liquids constitute food products. When products are packed in brine or other preserving fluids, the weight or measure of such brine or fluids shall not be included in the weight or measure of the edible indicated on the container.

fornia, to provide for the issuance of certificates of registration as a

§ 10. **"Container" defined.** The term "container" used in this act is hereby defined to be any receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped, or put for sale, or to be offered or exposed for sale.

TITLE 385.
NURSING.

ACT 2508b.

An act to promote the better education of nurses and the better care of the issuance of certificates of registration as registered nurses to qualified applicants by the state board of health, and to repeal an act approved March 20, 1905, entitled, "An act to promote the better education of the practice of nursing the sick in the state of Cali- the sick in the state of California, to provide for and regulate the examination and registration of graduate nurses, and to provide for

registered nurse, to qualified applicants of the board of regents of the University of California, and to provide penalties for violation thereof."

[Approved June 12, 1913. Stats. 1913, p. 613.]

Amended 1915, pp. 21, 603; 1917, p. 44.

The amendment of 1917 follows:

§ 4½. **False representation in nurse's examination.** Any person who shall willfully make any false representation or who shall impersonate any other person or permit or aid in any manner any person to impersonate him in connection with any examination or application for examination or registration or request to be examined or registered such person shall be guilty of a misdemeanor. [New section added April 5, 1917; Stats. 1917, p. 45.]

§ 11. **Monthly report of receipts.** Within ten days after the beginning of each month the secretary of the state board of health shall report to the controller the amount and source of all collections made under the provisions of this act, and at the same time all such amounts shall be paid into the state treasury and shall be placed to the credit of the special fund to be known as the fund for examination and registration of nurses; provided, that whenever and as often as there is in the state treasury to the credit of the fund for the examination and registration of nurses, funds in excess of ten thousand dollars the same may be invested by the state board of control in the same manner that the funds of the state school land fund are invested and the interest upon such investment when collected shall be placed to the credit of the fund for the examination and registration of nurses. All amounts paid into this fund shall be held subject to the order of the state board of health, to be used only for the purpose of meeting necessary expenses in the performance of the purposes of and the duties imposed by this act. Claims against the fund shall be audited by the state board of health and by the board of control and shall be paid by the state treasurer upon warrants drawn by the state controller. [Amendment approved April 5, 1917; Stats. 1917, p. 45.]

TITLE 386.

OAKLAND.

ACT 2509.

Charter of. [Stats. 1911, p. 1551.]

Amended 1917, pp. 1699, 1948, 1963.

ACT 2534.

An act granting certain tide-lands and submerged lands of the state of California to the city of Oakland and regulating the management, use and control thereof.

[Approved May 1, 1911. Stats. 1911, p. 1258.]

Amended 1917; Stats. 1917, p. 63.

The amendment of 1917 follows:

§ 1. **Tide-lands granted to Oakland.** There is hereby granted to the city of Oakland, a municipal corporation of the state of California, and

to its successors, all the right, title and interest of the state of California held by said state by virtue of its sovereignty in and to all tide-lands and submerged lands whether filled or unfilled which are included within that portion of the city of Oakland that lies westerly of the western line of Pine street, as Pine street exists between Atlantic street and Goss street and as shown upon that certain map entitled "map of land on Oakland point (railroad ferry landing) city of Oakland, tract four hundred six," filed May 24, 1864, in book of maps, five, page thirty-three, records of Alameda county, and said western line of Pine street produced northerly and southerly, excepting, however, from said tide-lands and submerged lands such of said lands as lie northerly of the northern boundary line of the city of Oakland, and the western extension thereof, as said northern boundary line was established by an act of the legislature of the state of California entitled "An act to amend an act entitled 'An act to incorporate the city of Oakland,' passed March twenty-fifth, one thousand eight hundred fifty-four, and repealing certain other acts in relation to said city," approved April 24, 1862, to be forever held by said city and by its successors in trust for the use and purposes and upon the expressed conditions following, to wit;

(a) **Purposes for which lands may be used.** That said lands shall be used by said city and its successors, only for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said city, or its successors, may grant franchises thereon for limited periods, but in no event exceeding fifty years for wharves and other public uses and purposes, and may lease said lands or any part thereof for limited periods, but in no event exceeding fifty years, for the purposes consistent with the trusts upon which said lands are held by the state of California, and with the requirements of commerce or navigation at said harbor.

(b) **Harbor improved without expense to state.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California.

(c) **No discrimination in rates.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures, or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors.

(d) **Right to fish reserved to people.** There is hereby reserved, however, in the people of the state of California the absolute right to fish in all the waters of said harbor, with the right of convenient access to

said waters over said land for said purpose. [Amendment approved April 5, 1917; Stats. 1917, p. 63.]

TITLE 397.

ORPHAN ASYLUM.

ACT 2595a.

An act appropriating money to meet additional expense for the support or orphans, half-orphans and abandoned children for the sixty-seventh and sixty-eighth fiscal years. [Approved January 29, 1917. Stats. 1917, p. 5. In effect immediately.]

This act appropriated $250,000 for the purpose indicated.

TITLE 401.

PALO ALTO.

ACT 2612.

Charter of. [Stats. 1909, p. 1175.]

Amended 1911; Stats. 1911, p. 2040; 1917, Stats. 1917, p. 1859.

TITLE 403.

PAROLE COMMISSIONERS.

ACT 2623.

An act to authorize the state board of prison directors to provide for assisting paroled and discharged prisoners and to secure employment for the same and making an appropriation for that purpose.

[Approved May 14, 1917. Stats. 1917, p. 528. In effect July 27, 1917.]

§ 1. **Authority to assist paroled and discharged prisoners.** The state board of prison directors shall have the power and authority to provide for assisting paroled and discharged prisoners and to secure employment for the same and for that purpose they may employ necessary officers and employees, may purchase tools, and give any other assistance that, in their judgment, they may deem proper for the purpose of carrying out the objects and spirit of this act.

§ 2. **Moneys drawn without submitting vouchers.** Upon this act becoming effective, the state board of prison directors may draw upon the moneys herein appropriated in the amount of one thousand dollars, without submitting vouchers thereon, which amount shall, from time to time, be replenished by demand upon said appropriation equal to the amount of expenditures represented by vouchers submitted to the state board of control and filed with the controller.

§ 3. **Appropriation.** The sum of seventeen thousand dollars is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the purpose of this act; the state controller is hereby directed to draw his warrant therefor, payable to the state board of prison directors in such amount as may be required from time to time, and the state treasurer is directed to pay the same.

TITLE 406.
PAUPERS.

ACT 2631.

An act to provide for the maintenance and support, in certain cases, of indigent, incompetent, and incapacitated persons (other than persons adjudged insane and confined within state hospitals), becoming a public charge upon the counties or cities and counties within the state of California, and for the payment thereof into a fund for the maintenance and support of such persons.

[Approved March 23, 1901. Stats. 1901, p. 636.]

Amended 1917; Stats. 1917, p. 444.

The amendment of 1917 follows:

§ 5. **Duty of board of supervisors.** It shall be the duty of the board of supervisors of every county and every city and county as a whole, or by committee or by such person or society as it may authorize, to investigate every application for relief from the funds of such county or city and county, to supervise by periodic visitation every person receiving such relief, to devise ways and means for bringing persons unable to maintain themselves to self support and to keep full and complete records of such investigation, supervision, relief and rehabilitation, as shall be prescribed by the state board of charities and corrections. [Amendment approved May 14, 1917; Stats. 1917, p. 445.]

§ 10. **Duty of state board of charities and corrections.** It shall be the duty of the state board of charities and corrections to prescribe forms of records for the use of board of supervisors and their agents in keeping records heretofore mentioned. [New section added May 14, 1917; Stats. 1917, p. 445.]

TITLE 417a.
PLUMBING.

ACT 2712a.

An act providing for the examination, certification and registration of plumbers, prescribing powers and duties of the state board of health in reference thereto, and penalties for a violation of the provisions hereof.

[Approved April 6, 1917. Stats. 1917, p. 73. In effect July 27, 1917.]

§ 1. **"Master plumber" defined. "Journeyman plumber" defined.** Certain terms as used in this act shall be construed as follows:

(a) The term "master plumber" means one who has an established place of business and works by contract.

(b) The term "journeyman plumber" means one who, as an employee, personally installs plumbing work, but does not mean a helper or an apprentice working under the direct personal supervision of a plumber who holds a temporary permit or a certificate of competency issued pursuant to the provisions of this act.

§ 2. **Certificate of competency.** It shall be unlawful for any journeyman plumber or master plumber in any city or town maintaining a public sewer system to personally install any plumbing or drainage system or portion thereof unless he shall first obtain a temporary permit or a certificate of competency issued pursuant to and as provided for in this act.

§ 3. **Examining board.** In each county in which there is a city or town having a sewer system, the state board of health shall appoint an examining board of three members, one of whom must be a journeyman plumber who has had at least five years' practical experience as a plumber in this state, one a master plumber who has engaged in the plumbing business as a master plumber for at least five years in this state, and one a regularly licensed and practicing physician of this state. They shall serve for twelve, eighteen and twenty-four months respectively, or until their successors are duly appointed and qualified, and each member shall receive as compensation fifty cents for each applicant examined, such compensation to be paid out of the funds of the state board of health semi-annually. Within ten days after their appointment the board shall meet and choose one of its members to act as secretary of the board. The state board of health shall provide each examining board with the necessary application forms, registration books, temporary permits, certification blanks, and all tools, materials and office or shop room in which to properly conduct the examinations. Applications for examination may be made in writing. The state board of health shall adopt such rules and regulations as may be necessary and advisable to carry out the purposes of this act.

§ 4. **Application for certification. Examination.** Application for certification shall be made to the secretary of the examining board. The fee for filing the application shall be two and one-half dollars and shall be paid to the secretary of the examining board and by him to the state board of health to the credit of the contingent fund thereof. In no case shall the filing fee be returned to the applicant. The examining board shall issue to the applicant a temporary permit which shall be valid only until the examination is held and the certificate granted or denied. The examination shall consist of an oral or written examination and practical test and shall be of sufficient strictness to properly test the qualifications of the applicant as to his knowledge of plumbing, house draining and ventilation. If the applicant shows by a proper examination that he is qualified the board shall issue to him a certificate of competency which shall thereafter be renewed every twelve months without the necessity of an examination, upon the payment of an annual fee of two dollars. Any person possessing such a certificate of competency to work in a particular county shall be entitled to work at the plumbing business in any other county in this state upon registering with the examining board thereof. Such registration shall be without cost and without examination.

§ 5. **Revocation of certificate.** Said board may make such rules and regulations as may be necessary to effectively carry out the provisions of this act and may at any time revoke a certificate granted by it for

the violation of any such rules or regulations or of municipal building, plumbing or sanitary ordinance.

§ 6. **Provisions of city charters.** Nothing in this act contained shall be deemed to repeal or in any manner supersede the authority conferred upon the board of health, department of public health, or health officer, by the charter of any incorporated city or city and county, or the power, under such charter, to enact ordinances providing for the conduct of any of the matters and things embraced within the terms of this act.

§ 7. **Penalty.** Any person violating any provisions of this act shall be guilty of a misdemeanor as defined in section nineteen of the Penal Code.

TITLE 420.

POLICE.

ACT 2735.

Creating police relief, health, life insurance, and pension fund. [Stats. 1889, p. 56.]

Amended 1891, pp. 287, 469; 1897, p. 52; 1917, pp. 119, 120.

The amendments of 1917 follow:

§ 3. **Who entitled to receive police pensions.** Whenever any person at the taking effect of this act, or thereafter, shall have been duly appointed or selected, and sworn, and have served for twenty years, or more, in the aggregate, as a member, in any capacity or any rank whatever, of the regularly constituted police department of any such county, city and county, city, or town which may hereafter be subject to the provisons of this act, said board shall order and direct that such person, after becoming sixty years of age, be retired from further services in such police department, and from the date of the making of such order the service of such person in such police department shall cease, and such person so retired shall thereafter, during his lifetime, be paid from such fund a yearly pension equal to one-half of the amount of salary attached to the rank which he may have held in said police department for the period of one year next preceding the date of such retirement; provided, that any person who comes within the purview of this section, who has otherwise complied with its provisions and who has served for thirty years or more as herein provided may be retired from further service upon a yearly pension equal to two-thirds of the amount of such yearly salary. [Amendment approved April 14, 1917; Stats. 1917, p. 119.]

§ 12. **Moneys to be paid into police pension fund.** The board of supervisors, or other governing authority, of any county, city and county, city, or town shall, for the purposes of said "police relief and pension fund" hereinbefore mentioned, direct the payment annually, and when the tax levy is made, into said fund of the following moneys:

First—Not less than five nor more than ten per centum of all moneys collected and received from licenses for the keeping of places wherein spirituous, malt, or other intoxicating liquors are sold.

Second—One-half of all moneys received from taxes or from licenses upon dogs.

Third—All moneys received from fines imposed upon the members of the police force of said county, city and county, city, or town, for violation of the rules and regulations of the police department.

Fourth—All proceeds of sales of unclaimed property.

Fifth—Not less than one-fourth nor more than one-half of all moneys received from licenses from pawnbrokers, billiard-hall keepers, second-hand dealers, and junk stores.

Sixth—All moneys received from fines for carrying concealed weapons.

Seventh—Twenty-five per centum of all fines collected in money for violation of county, city and county, city, or town ordinances.

Eighth—All rewards given or paid to members of such police force, except such as shall be excepted by the chief of police.

Ninth—The board of supervisors, or other governing authority, of any county, city and county, city or town shall for the purposes of said "police relief and pension fund" provide in addition to the salary now paid or which may be hereafter paid to each member of the police department an amount equal to two per cent of the salaries paid to the policemen of such county, city and county, city or town during the preceding year, payable from the funds of such municipal corporation. [Amendment approved April 14, 1917; Stats. 1917, p. 120.]

ACT 2736.

An act relating to senior rights of members of paid police departments of counties, cities and counties, cities or towns.

[Approved February 23, 1907. Stats. 1907, p. 46.]

Amended 1917; Stats. 1917, p. 1610.

§ 1. **Senior rights in police department.** Whenever a member of a paid police department of any county, city and county, city or town shall have served ten years as a member of such police department, he shall be entitled to senior rights in the assignment of duties in the order of their seniority and shall be entitled to day work or to any position held by a member of the same rank not ten years in the service. [Amendment approved June 1, 1917; Stats. 1917, p. 1610.]

§ 2. **Penalty for failure to make assignments.** Any police official whose duty it is to assign the members of the police department to their duties and who fails to make assignments in accordance with the provisions hereof shall forfeit one month's salary. All money forfeited under this act shall be paid into the treasury of the county, city and county, city or town in which the forfeiture occurs. It shall be the duty of the district attorney to enforce the provisions hereof. [Amendment approved June 1, 1917; Stats. 1917, p. 1611.]

TITLE 421.

POLICE COURTS.

ACT 2741a.

An act to establish police courts in cities of the first and one-half class, to fix the jurisdiction of said courts and to provide for the officers thereof, to prescribe the powers and duties of the officers of said

courts, and to fix the compensation of certain officers thereof, and to repeal an act entitled "An act to establish police courts in cities of the first and one-half class, to fix their jurisdiction and provide for officers of said courts and fix the compensation of certain officers thereof," which became a law under the provisions of the constitution of the state of California without the governor's approval, on the 5th day of March, 1901, and all acts amendatory of said act or supplementary thereto.

[Approved June 6, 1913. Stats. 1913, p. 469.]

Amended 1917; Stats. 1917, p. 417.

The amendment of 1917 follows:

§ 6. Clerk. Bond, salary, duties, monthly account. Business hours. Dockets. Said police court shall have a clerk for each of the judges of said court, who shall be appointed by the judge of said court presiding in the department thereof in which the said clerk is to act, and one additional clerk who shall be appointed by the presiding judge of said court. Each of said clerks shall hold office for the term of four years from the date of his appointment. Each such clerk shall be ex officio a clerk of the city justices of the peace. Each of said clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the mayor, conditioned for the faithful discharge of the duties of his office. Each of said clerks shall receive an annual salary of two thousand one hundred dollars, payable in equal monthly installments out of the treasury of said city, which salary shall be full compensation for all services rendered by him. Each of said clerks shall keep a record of the proceedings of said court and issue all processes ordered by the city justices or either of them, or by said police court or a judge thereof, and receive and pay into the city treasury all fines imposed and collected by said court, and all forfeitures of cash deposited in lieu of bail in said court, and all other moneys which may come into his hands belonging to or payable to said city. They shall also render each month to the city council an extract and detailed account under oath of all fines imposed and collected and of all fines imposed and uncollected since their last reports. They shall prepare and approve bonds and may, in the absence of a judge of said court, fix the amount of bail to be required of any defendant charged in such court with any offense of which such court has jurisdiction. Such clerk may also justify bail, and may administer and certify oaths. Said clerks shall remain at the courtrooms of said court during business hours and during such reasonable times thereafter as may be necessary for a proper performance of their duties. Before receiving any monthly payment of salary each of said clerks shall make and file with the city auditor an affidavit that he has deposited with the city treasurer all moneys that have come into his hands belonging to the city. Any violation of this provision shall be a misdemeanor. Said clerks shall keep, compile and be the custodians of the dockets, files and records of said court. Said dockets shall, in civil cases, be kept in conformity to the provisions of sections nine hundred eleven, nine hundred twelve, nine hundred thirteen and nine hundred fourteen of the Code of Civil Procedure of the

state of California. In criminal cases the docket shall contain in each case:

1. The title of the case;
2. The demurrer, if any;
3. The motion to dismiss, if any, based upon any defect of the complaint in substance or form;
4. The ruling of the court upon any demurrer or motion to dismiss;
5. The defendant's plea;
6. Any order of the court setting the time for hearing of any demurrer or motion, or setting case for trial;
7. The names of the witnesses sworn and examined at the trial;
8. The verdict;
9. The time set for rendering judgment, if judgment is not passed immediately after verdict or plea of guilty; and the waiver of time for sentence, if there be such waiver;
10. The judgment;
11. A minute of all motions, rulings and orders made after verdict of judgment;
12. The dates of the various actions or things required to be recorded.

Each of said clerks shall perform such other duties as the court by a majority vote of the judges thereof may determine in regulating and conducting the business of said court, and said judges may select one of the said clerks to supervise and audit the books, records and accounts of the several departments of said court in co-operation with the city auditor of said city, and to perform such other duties as said judges may require.

TITLE 431.

PROTECTION DISTRICTS.

ACT 2804.

An act to provide for the formation of protection districts in the various counties of this state, for the improvement and rectification of the channels of innavigable streams and watercourses, for the prevention of the overflow thereof, by widening, deepening, and straightening and otherwise improving the same, and to authorize the boards of supervisors to levy and collect assessments from the property benefited to pay the expenses of the same.

[Approved March 27, 1895. Stats. 1895, p. 247.]

Amended 1897, p. 219; 1903, p. 328; 1909, p. 807; 1911, p. 446; 1917, p. 1219.

The amendment of 1917 follows:

§ 20½. **Refund of unused assessments.** Assessments levied and collected under the terms of this act, if unused, and unapplied for a period of one year after the day on which said assessments become due and payable, may be refunded by the board of supervisors in the manner provided by law for the refund of state and county taxes. [New section added May 26, 1917; Stats. 1917, p. 1219.]

ACT 2806.

An act to provide for the formation, organization and government of storm-water districts, for the purpose of protecting the land therein from damage from storm water and from the waters of any innavigable stream, watercourse, canyon or wash, for the construction of the necessary works of protection by said district, and for the levying of taxes and assessments to pay for the cost of constructing, repairing and maintaining such improvements.

[Approved March 13, 1909. Stats. 1909, p. 339.]

Amended 1913, p. 504; 1917, p. 214.

The amendment of 1917 follows:

§ 1. **Storm-water districts formed. Petition of land owners. Resolution of intention. Hearing. Notice.** Storm-water districts may be formed under the provisions of this act for the purpose of protecting the lands in such district from damage by storm-water, dams, ditches, dikes and other structures, and by spreading, conserving, storing, retaining or causing to percolate into the soil any or all waters of any innavigable stream, watercourse, canyon or wash. When twenty-five per cent or more owners of land whose names appear as such upon the last assessment-roll in any district of land which lies in one body and is liable to damage from storm water or from the waters of any innavigable stream, watercourse, canyon or wash, shall present a petition to the board of supervisors of the county in which said land lies, or if the same lies in more than one county, then to the board of supervisors of the county in which the greater area of such land lies, setting forth the exterior boundaries of said district and asking that the district so described be formed into a storm-water district under the provisions of this act. The said board of supervisors shall pass a resolution declaring their intention to form or organize said portion of said county or counties into a storm-water district for the purpose of protecting the land therein from damage from storm water and from the waters of any innavigable stream, canyon or wash and describing the exterior boundaries of the district. Said resolution shall fix a time and place for the hearing of the matter not less than thirty days after the passage thereof, and direct the clerk of said board to publish the notice of the intention of the board of supervisors to form such storm-water district and of the time and place fixed for the hearing, and shall designate some newspaper of general circulation published and circulated in said proposed storm-water district, or if there is no newspaper so published and circulated, then some newspaper of general circulation published and circulated in each county in which any part of said proposed district is situated in which said notice is to be published. [Amendment approved May 4, 1917; Stats. 1917, p. 215.]

§ 2. **Publication of notice. Notice to owners.** Thereupon said clerk shall cause to be published in the newspaper or newspapers so designated, for a period of twenty days before the date fixed for the hearing, a notice, which shall be headed "Notice of intention of the board of supervisors to form a storm-water district." Said notice shall set forth

the fact of the passage of such resolution with the date thereof, the boundaries of the proposed district, and the time and place for the hearing, and shall state that it is proposed to assess all property embraced in said proposed storm-water district, for the purpose of paying the damages, costs and expenses of constructing and repairing such dikes, levees, ditches, canals, reservoirs, shafts and other improvement as may be necessary to protect the land in said district from damage from storm water and from waters of any innavigable stream, canyon or wash, or to spread, conserve, store, retain or cause to percolate into the soil within such district any or all of such waters, and the necessary expense of maintaining said district, and shall refer to the resolution for further particulars. The assessor shall certify to the clerk the name of each owner of land in the proposed district whose name appears as such on the last assessment-roll of the county or counties in which said proposed district lies, and said clerk shall forthwith send a copy of said notice by registered mail, postage prepaid, to each owner so certified, addressed to such owner at his address given on said assessment-roll or, if no address is given, then at his last known address, or if it be not known, then at the county seat of the county in which his land lies. Said clerk shall make and file in his office an affidavit of such mailing, showing the names and addresses of the persons to whom such notices were sent, which shall be prima facie evidence that such notices were mailed as herein required. [Amendment approved May 4, 1917; Stats. 1917, p. 215.]

§ 3. **Objections.** Any person interested objecting to the formation of such proposed district, or to the extent thereof, may, at or before the time fixed for the hearing of the matter, file a written objection thereto, with the clerk of said board of supervisors, who shall indorse thereon the date of its reception by him, and shall at the time fixed for the hearing, place all such objections filed with him before said board of supervisors. [Amendment approved May 4, 1917; Stats. 1917, p. 216.]

§ 4. **Hearing. Declaration of supervisors.** At the time fixed for the hearing, or to which the hearing may be adjourned, the board of supervisors shall hear the objections filed, if any, and pass upon the same. Said board may, in its discretion, sustain any or all of the objections filed, and may change or alter the boundaries of such proposed district to conform to the needs of the district, except that they shall not include therein any territory not included in the boundaries mentioned in the petition, and may, in their discretion, declare such storm-water district formed with the boundaries designated by them, and shall designate such district by name as the —— storm-water district of —— county (or counties); provided, that no such district shall be formed wherein a majority of the owners of property in said district, according to the last previous assessment-roll, object. [Amendment approved May 4, 1917; Stats. 1917, p. 216.]

§ 16. **Installment assessments. Duty of tax collector. Payment of assessments.** After said report has been adopted, the board of trustees, if they consider the total sum to be raised for the payment of the cost of such improvements too great to be properly expended in one year, or too great to be raised in one year by assessment against the property

in such storm-water district, may by order entered upon their minutes, provide that the total sum assessed shall be raised in any number of equal annual installments, not exceeding ten. When the board has adopted the report and determined the number of equal annual installments in which such assessment shall be raised, they shall cause their clerk to forward to the tax collector of the county in which such district is situated, who shall file the same in his office, a certified copy of the report, assessment and plat as adopted and confirmed by said board of trustees, together with a certified copy of the order of said board, fixing the number of equal annual installments in which such assessment is to be raised, and the county tax collector shall enter said assessments upon the county assessment-roll in the same manner as county taxes. From and after such entry upon the county assessment-roll, the first year's installment of the amount assessed thereon against each parcel of land shall become due and payable immediately, and the total amount assessed against each parcel of land shall constitute a lien thereon; and thereafter installments of the assessment for the succeeding years shall become due and payable on the first Monday of October of each year; provided, that any or all subsequent installments of the assessment on any parcel of land may, at the option of any person desiring to pay the same, be paid at any time after the first installment becomes due and payable. If the district is situated in two or more counties, a certified copy of said report, assessment, plat and order of the board of trustees shall be filed with the tax collector of each county in which any part of said district is situated, and thereafter each tax collector shall enter the assessments upon the assessment-roll of his county and proceed as to the property in said district within his own county in the manner hereinafter directed, and the assessment on the property in said county shall be collected in the manner hereinafter directed. [Amendment approved May 4, 1917; Stats. 1917, p. 215.]

§ 17. Notice by tax collector that assessments are due. Annual notice. Within one month after the filing of such certified copy of said report, assessment, plat and order with the tax collector, and the entry of the same upon the county assessment-roll, said tax collector shall give notice by ten days' publication in a newspaper of general circulation published in said district, or if there is none, in a newspaper of general circulation published in his county, that the assessment-roll of —— storm-water district of —— county, has been filed in his office, and entered upon the county assessment-roll, with the date of such entry; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday in January next ensuing, the same will become delinquent and will be collected in the same manner as delinquent taxes. If the first Monday in January next ensuing is less than three months from the date of filing the assessment-roll with the tax collector, the date, to be stated in the notice, shall be three months after such entry upon the county assessment-roll. The tax collector shall note on the county assessment-roll all assessments paid, with the dates of payment, giving receipts as in the case of payments of taxes, and shall pay all money collected into the county treasury at the same time and in the same manner as money collected for taxes paid into such treasury. All col-

lections of subsequent installments of the assessment shall be made in the same manner as above set forth, and the tax collector shall annually (after the first year), immediately after the first Monday of October give notice as above directed that the (giving the number) annual installment of the assessments of said district is now due and payable, and that if not paid on or before the first Monday of January next ensuing, the same will become delinquent and will be collected in the same manner as delinquent taxes; and the same proceedings shall be had thereon as upon the collection of the first assessment. If said district is situated in two or more different counties, all moneys collected on account of such assessment shall be paid into the treasury of the county in which said district was organized. [Amendment approved May 4, 1917; Stats. 1917, p. 217.]

§ 26a. Bonded indebtedness. Election. Notice. Whenever the board of trustees deem it necessary for the district to incur a bonded indebtedness, it shall, by resolution, so declare and state the proposition to be submitted to the electors, the purpose for which the proposed debt is to be incurred, the amount of debt to be incurred, the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed twenty years, and the maximum rate of interest to be paid, which shall not exceed six per cent per annum, payable semi-annually. The board of trustees shall fix a date upon which an election shall be held, for the purpose of authorizing said bonded indebtedness to be incurred. It shall be the duty of the board of trustees to provide for holding such special elections on the day so fixed and in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Such board of trustees shall give notice of the holding of such election, which notice shall contain the resolution adopted by the board of trustees of the district, boundaries of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and one clerk in each precinct. Such notice shall be published for two weeks in at least one newspaper, and not more than two newspapers published in such district, which newspaper or newspapers shall be designated by the board of trustees; and if there is no newspaper printed in such district, then by publication for two weeks in one newspaper published in the county in which such district is situated, or by posting such notice in three public places therein, at least two weeks before the date of such election. All the expenses of holding such election shall be borne by the district. The returns of such election shall be made, the votes canvassed by said board of trustees on the first Monday following said election, and the results thereof ascertained and declared in accordance with the general election laws of the state, so far as they may be applicable, except as herein otherwise provided. The secretary of the board of trustees, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted. In all respects not otherwise provided for herein, said election shall be called, managed and directed as is by law

provided for general elections in this state applicable thereto. [New section approved May 4, 1917; Stats. 1917, p. 218.]

§ 26b. **Bonds issued if two-thirds vote favors.** If from such returns it appears that more than two-thirds of the votes cast at such election were in favor of and assented to the incurring of such indebtedness, then the board of trustees may, by resolution, at such time or times as it deems proper, provide for the form, denomination and execution of such bonds and for the issuance of any part thereof, and may sell or dispose of the bonds so issued at such time or times and in such manner, either in cash in lawful money of the United States, or its equivalent, as it may deem to be to the public interest, but not for less than the par value thereof; said bonds shall be signed by the president and clerk of said district and the seal of the district shall be affixed. [New section added May 4, 1917; Stats. 1917, p. 219.]

§ 26c. **Bonds exempt from taxation.** Any bonds issued by any district, under the provisions of this act, are hereby given the same force as bonds issued by any municipality, and shall be exempt from all taxation within the state of California. [New section added May 4, 1917; Stats. 1917, p. 219.]

§ 26d. **Bonds lien upon property of district.** Any bonds issued under the provisions of this act shall be a lien upon the property of the district and the lien of the bonds of any issue shall be a preferred lien to that of any subsequent issue. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed from such payments. [New section added May 4, 1917; Stats. 1917, p. 219.]

§ 26e. **Estimate of amount to pay interest and principal. Tax levy.** The board of trustees of each storm-water district shall annually during the month of August estimate the amount of money which will be needed to pay the interest and such portion of any bond issue maturing prior to the preceding August, and certify such amount to the board of supervisors of the county or counties in which said district lies. Such boards or boards of supervisors shall, at the time of making the levy of taxes, for county purposes for that year, levy a tax upon the real property in their county in said district, sufficient in amount to raise the sum estimated by the board of trustees to be necessary. When the district is in two or more counties, the amount to be raised upon the part of the district in each county shall be in proportion to the assessed valuation of the several portions of the districts in the respective counties. Said tax, when levied, shall be entered upon the assessment-roll and collected in the same manner as the state and county taxes. When the same is collected, it shall be placed in the treasury of the county in which said district is organized, to the credit of the bond fund of said district, and shall be used only for the purpose for which it is raised. [New section added May 4, 1917; Stats. 1917, p. 220.]

§ 27. **Proceedings for disincorporation.** Any storm-water district may be disincorporated at any time before the adoption of the first commis-

sioner's report by proceedings had in the following manner: Whenever a petition praying for such disincorporation shall be presented to the trustees of said district signed by a majority of the land owners therein, they shall call an election in the same manner as elections for members of the board of trustees are called, and submit to the electors of said district the question of disincorporation. Said election shall be held in all respects in the same manner as regular elections of trustees of the district. If it appears that a majority of the electors voting at said election have voted in favor of disincorporation, the trusteees shall cause such fact to be entered upon their minutes, and shall forward a copy of such entry to the board of supervisors by whom the district was organized, who shall file the same with their clerk, and from the date of such filing, said district shall be deemed disincorporated; provided, that if at the time of the dissolution, or disincorporation of said district, there be any outstanding bonded or other indebtedness of such district, then taxes for the payment of such bonded or other indebtedness shall be levied and collected, the same as if such district had not been dissolved and disincorporated, but for all other purposes, such district shall be deemed dissolved and disincorporated from the time of the forwarding of said copy of such entry to said board of supervisors. [Amendment approved May 4, 1917; Stats. 1917, p. 220.]

TITLE 435.

PUBLIC HEALTH.

ACT 2827.

An act to provide for the reporting of occupational diseases. [Approved April 21, 1911. Stats. 1911, p. 953.]

Repealed 1917; Stats. 1917, p. 432.

ACT 2830.

An act for the preservation of the public health of the people of the state of California, and empowering the state board of health to enforce its provisions, and providing penalties for the violation thereof.

[Approved March 23, 1907. Stats. 1907, p. 893.]

Amended April 1, 1911, Stats. 1911, p. 565, and June 13, 1913, Stats. 1913, p. 796; May 24, 1917, Stats. 1917, p. 920.

The amendment of 1917 follows:

§ 2. **Unlawful to discharge sewage in streams. Unlawful to moor house-boat two miles above intake.** It shall be unlawful to discharge, drain or deposit, or cause or suffer to be discharged, drained or deposited, any sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, offensive, injurious or dangerous to health, into any springs, streams, rivers, lakes, tributaries thereof, wells or other waters used or intended to be used for human or animal consumption or for domestic purposes, or to maintain a sewer farm or to erect, construct, excavate, or maintain, or cause to be erected, constructed, excavated or maintained, any privy, vault, cess-

pool, sewage treatment works, sewer-pipes or conduits, or other pipes or conduits, for the treatment and discharge of sewage or sewage effluents or impure waters, gas, vapors, oils, acids, tar, or any matter or substance offensive, injurious or dangerous to health, whereby the same shall overflow lands or shall empty, flow, seep, drain, condense into or otherwise pollute or affect any waters intended for human or animal consumption or for domestic purposes, or any of the salt waters within the jurisdiction of this state; or to add to, modify or alter any of the plant, works, system thereof or manner or place of discharge or disposal; or to erect or maintain any permanent or temporary house, camp, or tent, so near to such springs, streams, rivers, lakes, tributaries, or other sources of water supply, as to cause or suffer the drainage, seepage, or flow of impure waters, or any other liquids, or the discharge or deposit therefrom of any animal, mineral, or vegetable matter, to pollute such waters without a permit from the state board of health, as hereinafter provided.

It shall also be unlawful for the owner, tenant, lessee or occupant of any house-boat or boat intended for or capable or being used as a residence, house, dwelling or habitation, or for the agent of such owner, tenant, lessee or occupant to moor or anchor the same or permit the same to be moored or anchored in or on any river or stream, the waters of which are used for drinking or domestic purposes by any city, town or village within a distance of two miles above the intake or place where such city, town or village water system takes water from such river or stream; provided, however, that in the transportation of any such house-boat on any such river or stream nothing herein contained shall prevent the owner, agent, tenant or occupant of such house-boat from mooring or anchoring the same when necessary within the limits herein fixed and established; provided, such house-boat shall not remain moored or anchored within such limits for a longer period than one day. [Amendment approved May 24, 1917; Stats. 1917, p. 920.]

§ 3. **Petition for permission to discharge sewage, etc., into streams. Plan of work. Hearing.** Whenever any county, city and county, city, town, village, district, community, institution, person, firm, or corporation, shall desire to deposit or discharge, or continue to deposit or discharge into any stream, river, lake or tributary thereof, or into any other waters used or intended to be used for human or animal consumption or for domestic purposes, or into or upon any place the surface or subterranean drainage from which may run or percolate into any such stream, river, lake, tributary or other waters, any sewage, sewage effluent, or other substance by the terms of section two of this act forbidden so to be deposited or discharged, or whenever any such county, city and county, city, town, village, district, community, institution, person, firm or corporation shall desire to deposit or discharge, or continue to deposit or discharge any sewage, sewage effluent, trade wastes or any animal mineral or vegetable matter or substance, offensive, injurious or dangerous to health in any of the salt waters within the jurisdiction of this state, or to maintain a sewer farm or to permit the overflow of sewage on to any land whatever, or shall desire to erect, construct, excavate or maintain any privy, vault, cesspool, sewage treatment works, sewer-

pipe or conduits, or other pipes or conduits for the treatment and discharge of sewage, sewage effluents, or any matter offensive, injurious or dangerous to health, or shall desire to add to, modify or alter any of the plant, works, or system or manner or place of discharge or disposal, he or it shall file with the state board of health a petition for permission so to do, together with a complete and detailed plan, description and history of the existing or proposed works, system, treatment plant and of such proposed addition to, modification or alteration of any of the plant, works, system or manner or place of discharge or disposal, such plans and general statement to be in such form and to cover such matters as the state board of health shall prescribe. Thereupon, a thorough investigation of the proposed or existing works, system and plant, and all circumstances and conditions by it deemed to be material, shall be made by the state board of health. As a part of such investigation, and after ten days' notice by mail to the petitioner, a hearing or hearings may be had before said board or an examiner appointed by it for the purpose. At such hearing or hearings witnesses who testify shall be sworn by the person conducting the hearing, and evidence, oral or documentary, may be required, a record of which shall be made and filed with said board. Upon the completion of such investigation said board,

(a) **Petition denied when discharge would endanger public health. Appointment of person to take charge of plant. Temporary permit.** If it shall determine as a fact that the substance being or to be discharged or deposited is such that under all the circumstances and conditions it may so contaminate or pollute such stream, river, lake, tributary or other waters or lands on which it may be discharged, deposited or caused to overflow, as to endanger the lives or health of human beings or animals, or to constitute a nuisance, or does or may constitute a menace to public health or a nuisance, or that under all the circumstances and conditions it is not necessary so to dispose of such substance, the state board of health shall deny the prayer of such petition; and shall order petitioner to make such changes as the state board of health shall deem proper for the purpose of this act. The state board of health may order the appointing of a competent person, to be approved by said board, and to be paid by said petitioner, who shall take charge of and operate such plant or system so as to secure the results demanded by the state board of health; and said board may order such repair, alteration or additions to the existing system, plant and works that the sewage or substance being or intended to be discharged or disposed of shall not contaminate or pollute streams or other water supplies, or endanger the lives, health or comfort of human beings or animals; and said board may order such changes of method, manner and place of disposal and the installation of such treatment works that streams and other water supplies will not be polluted or contaminated and the works and disposal shall not constitute a menace to health of human beings or animals, or a nuisance; which orders shall designate the period within which the desired charges are to be made; provided, however, that a temporary permit may be issued by the state board of health for said period to permit compliance with such order or orders.

(b) **Petition granted when discharge would not endanger public health. Permits revocable. Examinations by state board of health. Report on works, etc. Suit to enjoin discharge of sewage into streams. Public nuisance. Penalty for violation.** If it shall determine, as a fact, that the substance being or to be discharged or deposited, is not such that under all the circumstances and conditions, it will so contaminate or pollute such stream, river, lake, tributary or other waters, as to endanger the lives or health of human beings or animals, or to constitute a nuisance, and that under all the circumstances and conditions it is necessary so to dispose of such substance, it shall grant to petitioner a permit authorizing petitioner so to deposit or discharge or to continue to deposit or discharge such substance; provided, however, that such permit shall not be construed to permit any act forbidden by any provision of the laws of this state relative to the preservation or propagation of fish or game, or relative to the deposit of debris into the streams of the state, or relative to the obstruction of navigation; and provided, further, that all permits issued hereunder shall be revocable by said board at any time or subject to suspension if said board shall determine, as a fact, that the substance discharged or deposited by virtue thereof causes or may cause a contamination or pollution of waters or land that does or may endanger the lives or health of human beings or animals, or does or may constitute a nuisance; and provided, also, that nothing contained in this act shall be construed as limiting or denying the power of any incorporated city, city and county, town or village to declare, prohibit and abate nuisances, or as limiting or denying the power of the state board of health to declare or abate nuisances.

The state board of health and its inspectors shall at any and all times have full power and authority to and shall be permitted to, enter into and upon any and all places, inclosures and structures for the purpose of making, and to make, examinations and investigations to determine whether any provision of this act is being violated. Whenever any petitioner shall be granted any permit by said board and under the provisions of this act, such petitioner shall furnish to said board upon demand a complete report upon the condition and operation of the system, plant or works, which report shall be made by some competent person designated for the purpose by said board, and at the sole cost and expense of the holder of the permit.

Any county, city and county, city, town, village, district, community, institution, person, firm or corporation, who shall deposit, discharge or continue to deposit or discharge, into any stream, river, lake, or tributary thereof, or into any other waters, used or intended to be used for human or animal consumption or for domestic purposes, or into or upon any place the surface or subterranean drainage from which may run or percolate into any such stream, river, lake, tributary or other waters, or into any of the salt waters, or lands, within the jurisdiction of this state, any sewage, sewage affluent or other substance by the terms of section two of this act forbidden to be so deposited or discharged, without having an unrevoked permit so to do, as in this act provided, may be enjoined from so doing by any court of competent jurisdiction at the suit of any person or municipal corporation whose supply of water for

human or animal consumption or for domestic purposes is or may be affected, or by the state board of health.

Anything done, maintained, or suffered, in violation of any of the provisions of section 2 or section 3 of this act shall be deemed to be a public nuisance, dangerous to health, and may be summarily abated as such.

Every county, city and county, city, town, village, district, community, institution, firm, corporation or person, or any officer, employee or agent thereof upon whom the duty to act is cast, who shall violate any provision or part thereof of section 2 or 3 of this act, or who shall fail to obey, observe or comply with any direction, order, requirement or demand or any part or provision thereof of the state board of health, or who aids or abets any such county, city and county, city, town, village, district, community, institution, firm, corporation or person, or any officer, employee or agent thereof in any failure to obey or comply with the provisions of this act or the orders of the state board of health as provided in this act, shall become liable for and forfeit to the state of California the penal sum of not more than one thousand dollars to be fixed by the court for each and every offense. The continued existence of any violation of this act for each and every day beyond the time stipulated for compliance with any of its provisions or of any order of the state board of health as provided herein shall constitute a separate and distinct offense. All penalties are to be recovered by the state in civil action brought by the state of California and such penalties when collected shall be paid into the general fund of the state treasury.

Every officer, agent, or employee of any county, city and county, city, town, village, district, community, institution, firm, corporation or person who shall violate or fail to comply with any of the provisions of section 2 or section 3 of this act or with the order or orders of the state board of health or any part thereof, or who aids or abets in any failure to observe and comply with any such provision, order, or part thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment, for each offense. Each day's violation of this provision shall constitute a separate and distinct offense. [Amendment approved May 24, 1917; Stats. 1917, p. 921.]

ACT 2836a.

An act to prevent the introduction, and provide for the investigation and suppression of contagious or infectious diseases, and appropriating money to be used for such purpose.

[Approved June 7, 1913. Stats. 1913, p. 868.]

Amended 1917; Stats. 1917, p. 671.

The amendment of 1917 follows:

§ 2. **Extermination of rodents, insects, vermin etc., by property owners. Extermination by state board of health.** Whenever any land, place, building, structure, wharf, pier, dock, vessel or water craft, or other property is infested with rodents, insects, or other vermin which

are liable to convey or spread contagious or infectious disease from an existing focus declared by the state board of health, it shall be the duty of said board to at once notify the person, firm, copartnership, corporation, city, city and county, county, or district, owning said land, place, building, structure, wharf, pier, dock, vessel or water craft, or other property of the existence of said rodents, insects or other vermin, and said notice shall direct said owner to proceed immediately to exterminate and destroy said rodents, insects, or other vermin, and to continue in good faith such measures as may be necessary to prevent their return. Service of such notice upon a trustee, executor or administrator of the estate of the recorded owner of said property shall be deemed sufficient notice to the owner as provided herein and in the event the owner is absent from the state or cannot with due diligence be found, said notice shall be mailed to such owner addressed to his address given on the last completed assessment-roll of the county, or city and county in which said property is situate, or if no address be so given, then to his last known address and a copy of said notice shall be posted in a conspicuous place upon said property for a period of ten days. In the event that said owner fails, refuses or neglects to proceed and continue as above provided, within ten days from date of receipt of said notice, the state board of health may proceed to destroy said rodents, insects or other vermin, and take other appropriate measures to prevent their return, and the cost thereof shall be repaid to the state board of health by the owner of said land, place building structure, wharf, pier, dock, vessel, water craft or other property; provided, however, that said owner shall not be liable for expenditures in any one year, in excess of ten per cent of the assessed valuation of such property, and the appropriation provided in section one of this act shall be reimbursed by the amount so paid, and may be again expended in a similar manner. [Amendment approved May 18, 1917; Stats. 1917, p. 671.]

§ 3. **Lien on property for payment of expense of extermination. Disposition of proceeds. Receiver. Bond.** Any and all sums so expended by said state board of health shall be a lien upon the property on which such rodents, insects or other vermin shall have been destroyed, or other appropriate measures taken. The state board of health shall cause to be filed in the office of the county recorder of the county wherein said property is situated a notice setting forth the amount so expended by the state board of health and claiming a lien upon such property for the amount of such expenditures. Such claim of lien must be filed within six months after the first item of expenditure. An action to foreclose such lien shall be commenced within six months after the filing and recording of said notice of lien, which action shall be brought by the state board of health through its attorney and for its benefit; provided, however, that the lien provisions of this act shall not apply to the property of any county, city and county, municipality, district, or other public corporation, but it shall be the duty of the governing body of such county, city and county, municipality, district or other public corporation to repay the state board of health the amount expended by it upon such property under the provision of this act upon presentation by said state board of health of a verified claim or bill showing the amount of such expenditures.

When the property is sold, enough of the proceeds to satisfy such lien and the costs of foreclosure shall be paid into the state treasury for the benefit of the fund herein created and the overplus, if any there be, shall be paid to the owner of the property if known, and if not known, shall be paid into the court for the use of such owner when ascertained.

When it appears from the complaint in such action that the property on which such lien is to be foreclosed is likely to be removed from the jurisdiction of the court, the court may appoint a receiver to take possession of the property and hold the same while the action may be pending or until the defendant shall execute and file a bond, with sufficient sureties, conditioned for the payment of any judgment that may be received against him in the action and all costs. [Amendment approved May 18, 1917; Stats. 1917, p. 672.]

ACT 2840b.

An act regulating the cleaning, laundering, sale, offering for sale, and furnishing for use to employees, of wiping rags; authorizing counties, cities and counties, cities and towns, to enact ordinances prohibiting the cleaning, laundering, sterilizing, and sale of wiping rags without a permit, and to issue and revoke permits to clean, launder, and sell wiping rags within their respective jurisdiction; authorizing peace and health officers to make inspections of wiping rags, and making violations of this act a misdemeanor.

[Approved April 25, 1913. Stats. 1913, p. 86.]

Amended 1917, p. 1609.

The amendment of 1917 follows:

§ 3. **Not to be cleaned in laundry.** Any person or corporation who shall wash, cleanse or launder soiled rags or soiled cloth material for wiping rags by the same machinery or appliances by which clothing and articles for personal wear or household use are laundered, shall be guilty of a misdemeanor. [Amendment approved June 1, 1917. Stats. 1917, p. 1609.]

ACT 2840c.

An act to provide for the formation, government, organization, operation and dissolution of local health districts in any part of the state and for changing the boundaries thereof, the appointment and compensation of local district health officers, their deputies and assistants; defining the qualifications, powers and duties of such officers; and to provide for the assessment, levy, collection, custody and disbursement of taxes therein.

[Approved May 21, 1917. Stats. 1917, p. 791. In effect July 27, 1917.]

§ 1. **Local health district may be organized.** A local health district may be organized, incorporated and managed as herein provided, and may exercise the powers herein granted or necessarily implied. Such a district may include incorporated or unincorporated territory or both, in any one or more counties; provided, that the territory of the district consists of contiguous parcels and that the territory of no municipal corporation is divided.

§ 2. Petition of voters. Publication. Hearing. Boundaries. Whenever the formation of a local health district is desired, a petition, which may consist of any number of instruments, may be presented at a regular meeting of the board of supervisors of the county in which the proposed district or portion thereof is situated, signed by registered voters of each unit of the district equal in number to at least ten per cent of the number of votes cast in each unit respectively for the office of governor at the last preceding general election at which a governor was elected. For the purposes of this act all unincorporated territory in a proposed district and in one and the same county shall be regarded as an entirety and as a unit, and each incorporated city or town in a district shall likewise be regarded as a unit. If an incorporated city or town is included, the common council, board of trustees or other governing body thereof shall, by resolution duly authenticated, request the inclusion of the city or town in the proposed district. The petition shall set forth and describe the proposed boundaries of the district and shall pray that the same be created under the provisions of this act. Prior to the time at which the petition is to be presented, the text thereof shall be posted for thirty successive days in three public places in each incorporated city or town and unincorporated district; and a reference to said text shall be published along with the notice herein mentioned in this paragraph and the following paragraph for four successive publications in a daily, semi-weekly or weekly newspaper of general circulalation printed and published in each incorporated city or town included therein, and if there is no such newspaper published in the city or town, then the text of the petition shall be posted for the same length of time in three public places as herein specified. The text of the petition so posted and published by reference as herein mentioned shall have annexed thereto a notice stating the time and place of the meeting of the board of supervisors at which the same will be presented. When the petition is composed of more than one instrument, one copy only thereof need be published or posted as herein specified in the posting and publication of the text and notice. No more than five of the names attached to the petition need appear in such publication or posting, but the number of signers must be stated. At least one month prior to the time at which the petition is to be presented, a copy of the text, notice and petition must be filed with the state board of health and board of supervisors of the county or counties.

With such publication there shall also be published, and if posted, there shall also be posted, a notice of the time of the meeting of the board when such petition will be presented and that all persons interested therein may then appear and be heard. At such time the board of supervisors shall hear the petition and those appearing thereon, and also all protests and objections to the same, and may adjourn such hearing from time to time, not exceeding two months in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures thereto, shall vitiate any proceedings thereon, provided such petition or petitions have a sufficient number of qualified signatures attached thereto. On the final hearing the board shall make such changes in the proposed boundaries as may be deemed advisable and shall define and establish such boundaries; provided, that if the board

deems it proper to include therein any territory not included within the proposed boundaries, they shall first give notice of their intention so to do, in the same manner as required for notice of the initial hearing.

§ 3. **Testimony. Order establishing district. Certificate of incorporation.** Upon the hearing of the petition the board of supervisors shall determine whether it complies with the provisions of this act and whether the public necessity or the welfare of the inhabitants of the proposed territory requires the formation of the district, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. The findings of the board shall be final and conclusive against all persons except the state of California upon suit commenced by the attorney general. If it appears to the board that the petition complies with the provisions of this act and that the public necessity or the welfare of the inhabitants requires the formation of the district, it shall by an order entered on its minutes so declare its findings, and shall further declare and order that the territory within the boundaries so fixed and determined be established as a local health district, under an appropriate name selected by the board, which name shall include the words "local health district." The county clerk shall immediately file a certified copy of the order with the secretary of state and with the county clerk of each county in which the district or any portion thereof is situated. Within ten days of such filing the secretary of state shall issue and deliver to the county clerk a certificate reciting that the local health district (naming it) has been duly incorporated under the laws of the state of California. The county clerk shall deliver this certificate to the board of trustees of the district at the first meeting of the board. From and after the date of the certificate of the secretary of state, the district named therein shall be deemed incorporated as a local health district with all the rights, privileges and powers set forth in this act and necessarily incident thereto.

§ 4. **Board of trustees. Number. Vacancy. Term.** Within thirty days of the issuance by the secretary of state of the certificate of incorporation of the district, a board of trustees for the district shall be appointed. The board shall consist of one trustee to be appointed from each unit in the case of unincorporated territory by the board of supervisors, and in the case of an incorporated city or town, by the local governing body thereof; provided, that if the board of trustees hereby created consists of less than five members, then the board of supervisors shall appoint from the district at large enough additional members to make a board of five trustees, if the unit of the district at large is within one county; and if there are several units of the district at large in more than one county, then by the board of supervisors of the county where such unit is situated; and by the boards of supervisors jointly if the district at large constitutes units in several counties and one additional member is to be appointed. A vacancy shall be filled by the appointing power for the unexpired term. The governing board of the district shall be called "the board of trustees of —— local health district" (inserting the name of the particular district). The trustees shall hold office for the term of two years from and after the second day of the calendar year next succeeding their appointment; provided, however,

that the first board of trustees appointed in a district shall at their first meeting so classify themselves by lot that one-half of their number, if the total membership is an even number, and if uneven, then that a bare majority of their number, shall go out of office at the expiration of one year, and the remainder at the expiration of two years from the second day of the calendar year next succeeding their appointment.

§ 5. **Officers. Expenses. Meetings.** The members of the board of trustees shall meet on the first Monday subsequent to thirty days after the issuance of the certificate of incorporation by the secretary of state, and shall organize by the election of one of their members as president and one as secretary. The members of the board shall serve without compensation except that each shall be allowed his actual necessary traveling and incidental expenses incurred in attending meetings of the board. The board shall provide for the time and place of holding its regular meetings and the manner of calling the same, and shall establish rules for its proceedings and may adopt such rules and regulations not inconsistent with law as may be necessary for the exercise of the powers conferred and the performance of the duties imposed upon the board. Special meetings may be called by three trustees and notice of the holding thereof shall be mailed to each member at least forty-eight hours before the meeting. All of its sessions, whether regular or special, shall be open to the public, and a majority of the members of the board shall constitute a quorum for the transaction of business.

§ 6. **Powers.** Each local health district shall have and exercise the following powers:

(1) To have and use a corporate seal and alter it at pleasure;

(2) To sue and be sued in all courts and places and in all actions and proceedings whatever;

(3) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description, both within and without the limits of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district;

(4) To acquire, construct, maintain and operate all works and equipment necessary for the inspection of water, milk, meat and other foods, the extermination of rodents and the disposal of garbage and waste;

(5) To employ public health nurses and health visitors and to co-operate with educational authorities in health inspection in public or private schools in the district;

(6) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district;

(7) To enforce all statutes relating to the public health and vital statistics, and all orders, quarantine regulations and rules prescribed by the state board of health;

(8) To enforce such local orders and ordinances pertaining to health and sanitary matters within the district as may be authorized by the appropriate local authorities;

(9) To unite with any other local health district or districts in the exercise of any of the powers herein granted to and vested in each dis-

trict, the cost thereof to be paid by each district in such proportion as may be agreed upon by the respective district boards of trustees;

(10) To exercise all other needful powers for the preservation of the health of the inhabitants of the district, whether such powers are herein expressly enumerated or not;

(11) This grant of power is to be liberally construed for the purpose of securing the well-being of the inhabitants of the district.

§ 7. District health officer. Expenses. Powers. Appointment of district officers, etc. The board shall appoint and fix the compensation of a district health officer, who may be removed by the board only by a two-thirds vote of the members thereof. He shall be the holder of a degree in medicine, sanitary engineering or public health and shall have had at least one year's experience in public health work. He shall devote his entire time to the duties of his office and is expressly prohibited from engaging in any other occupation or business. The board shall provide suitable supplies, equipment and office facilities for the health officer and, upon the recommendation of the health officer, shall fix the compensation and define the powers and duties of such deputies and assistants to the health officer as the board may deem necessary to carry out the provisions of this act. If a meat inspector is employed, he shall be a graduate veterinarian legally qualified to practice veterinary medicine in the state of California.

The health officer, his deputies and assistants, shall receive their actual necessary expenses incurred in the performance of their duties. In enforcing state statutes, orders, regulations and rules and local orders and ordinances the health officer shall have such powers as are or may be hereafter conferred by general law upon county or municipal health officers. All district officers, deputies and assistants other than the health officer and the members of the board of trustees shall be appointed and may be removed by the board of trustees on the recommendation of the health officer, subject to such rules and regulations as the board of trustees, in its discretion may adopt for the appointment and employment of deputies and assistants, based on merit, efficiency, character and industry.

§ 8. Health officer administrative head. The health officer shall be recognized as the administrative head of the district and, except as herein otherwise prescribed, shall exercise the powers granted to and vested in the district; provided, that he may not purchase property or incur expenditures without the approval or ratification of the board of trustees.

§ 9. Estimate of amount needed. Levy of tax. Apportioned among counties. Annually, at least fifteen days before the first day of the month in which county taxes are levied, the board of trustees of each local health district shall furnish to the board of supervisors of the county in which the district or any part thereof is situated an estimate in writing of the amount of money necessary for all purposes required under the provisions of this act during the next ensuing fiscal year. Thereupon it shall be the duty of the board of supervisors to levy a special tax upon all taxable property of the county lying within the district sufficient in amount to maintain the district. The tax shall in no

case exceed the rate of fifteen cents on each one hundred dollars of the assessed valuation of all taxable property within the district, but it may be in addition to all other taxes allowed by law to be levied upon such property. The tax shall be computed, entered upon the tax rolls and collected in the same manner as county taxes are computed, entered and collected. All moneys so collected shall be paid into the county treasury to the credit of the particular local health district fund and shall be paid out on the order of the district board, signed by the president and secretary thereof. If the district embraces territory lying in more than one county, the amount estimated shall be ratably apportioned among the several counties in the district in proportion to the assessed value of the property in the several counties included within said district as shown upon the last assessment-rolls of the said counties, and the estimate apportioned to the several counties shall be rendered to their respective boards of supervisors and the tax shall be levied and collected by the officials of each county upon the property of the district lying therein.

§ 10. Annexation of territory. Petitions. Proposition submitted to electors. If majority favor. Annexation of municipal corporation. Any territory, incorporated or unincorporated, lying adjacent and contiguous to a local health district, may be added and annexed to such district at any time upon proceedings being had and taken as in this act prescribed; provided, that in such annexation the territory of no municipal corporation may be divided. The board of trustees of such district, upon receiving a written petition therefor containing a description of the new territory sought to be annexed to such district, signed by the owners comprising more than one-half of the assessed value of such territory as shown by the last county assessment-roll, must thereupon submit to the electors of the district and also to the electors residing in the territory sought to be annexed, the proposition of whether such proposed territory shall be annexed and added to such district. The proposition to be submitted to the electors at such election, both within said district and within said territory so proposed to be annexed, shall be as follows: "For annexation," or "Against annexation," or words equivalent thereto. Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district, and also in a newspaper printed and published in such territory so proposed to be annexed. The board of trustees shall canvass, separately, the votes cast within said district, and the votes cast within said territory so proposed to be annexed, and if it shall appear from such canvass that a majority of all the ballots cast in such district and a majority of all the ballots cast in such territory so proposed to be annexed are in favor of annexation, the board of trustees shall certify such fact to the secretary of state describing said property proposed to be annexed and upon receipt of such last-mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the territory (describing the same) has been annexed and added to the —— local health district (naming it), and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of each county in which such local health district or any portion thereof is situated. From and

after the date of such certificate the territory named therein shall be deemed added and annexed to and shall form a part of said local health district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. If the property so proposed to be annexed includes a municipal corporation, consent to annexation shall first be obtained from the governing board thereof, and an authentic copy of the resolution or order of such board so consenting to such annexation shall be attached to the petition and be made a part thereof.

§ 11. **Dissolution of district.** A district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called by its board of trustees upon the question of dissolution and the proposition which shall be submitted to the electors at such election shall be as follows: "Shall the district be dissolved?" Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in the district. If two-thirds of the votes at such election shall be in favor of the dissolution of the district, the board of trustees shall certify such fact to the secretary of state, and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the local health district (naming it) has been dissolved, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of each county in which the district or any portion thereof is situated. From and after the date of such certificate the district named therein shall be deemed disincorporated and the property of the district shall be ratably apportioned among the several municipalities included in the district and the county or counties in which the district or any portion thereof is situated, in proportion to the assessed value of the property included within said district as shown upon the last county assessment roll or rolls.

§ 12. **Conditions.** Whenever it appears that the territory of the proposed district is in more than one county, it is to be expressly understood in this act that the phrase "board of supervisors" shall include plural as well as singular and that the same procedure and law as herein set forth for the establishing of such local health district in a county only shall likewise apply to the adjoining county or counties whose territory or portion thereof is included in the proposed local health district, and that no district involving more than one county shall be formed without the concurrent consent of the respective board of supervisors of each of said counties, as well as the consent of the municipalities included therein, and that such district shall be officially incorporated under the laws of the state of California when the respective counties have fully complied with the laws herein specified, and when the secretary of state has received the respective certified copies of the orders of the counties and delivered to the respective county clerks within the time in this act specified his certificate reciting that the local health district has been duly incorporated under the laws of the state of California.

§ 13. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

ACT 2844e.

An act to prevent the providing for common use of receptacles for drinking purposes in public places, and prescribing penalties for violations thereof.

[Approved June 1, 1917. Stats. 1917, p. 1517. In effect July 31, 1917.]

§ 1. **Drinking cups for common use unlawful.** It shall be unlawful for any person, firm or corporation conducting, having charge of, or control of, any hotel, restaurant, saloon, soda fountain, store, theater, public hall, public or private school, church, hospital, club, office building, park, playground, lavatory or wash-room, barber-shop, railroad train, boat, or any other public place, building, room or conveyance, to provide or expose for common use, or permit to be so provided or exposed, or to allow to be used in common, any cup, glass, or other receptacle used for drinking purposes.

§ 2. **"Common use" defined.** For the purposes of this act the term "common use" when applied to a drinking receptacle shall be defined as its use for drinking purposes by, or for, more than one person without its being thoroughly cleansed and sterilized in boiling water or steam between consecutive uses thereof; provided, that nothing in this act is to be construed as prohibiting the use of cups or devices for individual use only; provided, further, that the state board of health may by resolution prescribe other acceptable methods of sterilization which may be used in place of the methods specified in this act.

§ 3. **Protection of water-cooler used for supplying drinking water.** No cask, water-cooler or other receptacle shall be used for storing or supplying drinking water to the public or to employees unless it is covered and protected so as to prevent persons from dipping the water therefrom or contaminating the same. All such containers shall be provided with a faucet or other suitable device for drawing the water; provided, that jugs, cans, buckets and similar receptacles without faucets or other devices for withdrawing water may be used if the water is protected against contamination and is withdrawn by pouring only.

§ 4. **Duty of health officers.** It shall be the duty of the state board of health and of all health officers of counties, municipalities and health districts to enforce the provisions of this act.

§ 5. **Penalty for violation.** Any person, firm or corporation violating any provision of this act is guilty of a misdemeanor and shall be liable to a fine not exceeding twenty-five dollars for each offense.

ACT 2844f.

An act to prevent the keeping of towels for common use in public places and prescribing penalties for violations of the provisions thereof.

[Approved June 1, 1917. Stats. 1917, p. 1518. In effect July 31, 1917.]

§ 1. **Towel for common use unlawful.** No person, firm or corporation conducting, operating, having charge of, or control of, any hotel, restaurant, factory, store, barber-shop, office building, school, public hall, railroad train, railway station, boat, or any other public place, room or conveyance, shall maintain or keep in or about any such place any towel for common use.

§ 2. **"Common use" defined.** For the purpose of this act the term "common use" when applied to a towel shall be defined as its use by, or for, more than one person without its being laundered by a process involving exposure to boiling water or steam between consecutive uses of such towel; provided, that the state board of health may by resolution prescribe other acceptable methods of sterilization which may be used in place of the methods specified in this act.

§ 3. **Duty of health officers.** It shall be the duty of the state board of health and of all health officers of counties, municipalities and health districts, to enforce the provisions of this act.

§ 4. **Penalty for violation.** Any person, firm or corporation violating any of the provisions of this act is guilty of a misdemeanor and shall be liable to a fine not exceeding twenty-five dollars for each offense.

TITLE 437.
PUBLIC LANDS.

ACT 2845a.

An act to provide for the reselection by the state of lands heretofore selected and sold by the state where the selection has been rejected or canceled because of the subsequent exclusion of the base lands from a national forest; and prescribing certain maximum fees to be charged by agents or attorneys for services performed hereunder, and prescribing penalties for the violation hereof.

[Approved May 26, 1917. Stats. 1917, p. 1218. In effect July 27, 1917.]

§ 1. **Reselection of land when selection rejected.** Where the state has made a selection of other land in lieu of a sixteenth or thirty-sixth section within a national forest and such selection has been or may be rejected or held for rejection by the general land office for the stated reason that since the date of such selection the base land has been excluded from such national forest, it shall be the duty of the surveyor-general, where the state has sold the selected land and upon application therefor by the holder of the certificate of purchase, to reselect the land on bases of the character of the bases used at the date the original selection was made, whenever such bases are available; provided, that the party applying for such reselection shall pay all of the fees and expenses required under the rules of the United States land office.

§ 2. **Penalty for charging fee over twenty-five dollars.** No person who, as attorney or agent for the owner of the certificate of purchase embracing the selected land, applies to the state surveyor-general to amend such state selection or to reselect the land embraced therein, shall charge, demand, or receive for such service any fee or other compensation in excess of the sum of twenty-five dollars. Any violation of the provisions of this section shall be a misdemeanor and shall be punished by a fine not to exceed one hundred dollars, or by imprisonment in the county jail not to exceed thirty days or by both such fine and imprisonment; provided, however, that nothing herein contained shall be held, deemed, or construed, to apply to any person who also acts as agent or attorney for such owner before the general land office of the United States at Washington, D. C., or before the secretary of the interior, in case it becomes necessary to take any action to protect such selection against adverse proceedings.

ACT 2867b.

An act authorizing the issuance of letters patent to the heirs at law of P. W. Fahey, deceased, for certain swamp and overflowed land in Tuolumne county, California. [Approved May 21, 1917. Stats. 1917, p. 771. In effect July 27, 1917.]

The nature of the act sufficiently appears from the title.

ACT 2874a.

An act providing for the leasing of certain state lands and making an appropriation for the purposes of this act.

[Approved May 17, 1917. Stats. 1917, p. 576. In effect July 27, 1917.]

§ 1. **Application to lease land. Fee.** Any person, firm or corporation desiring to lease any of the unsold portions of the sixteenth and thirty-sixth sections of school lands and the unsold portion of the listed lands selected from the public lands of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant must make application therefor to the surveyor-general of the state, describing the lands sought to be leased by legal subdivisions. The application must be accompanied by the filing fee of five dollars. All applications to lease lands under this act shall be approved or rejected by the surveyor-general within ninety days after the receipt thereof.

§ 2. **Annual rental.** Upon receipt of an application to lease any of the lands under this act the surveyor-general shall appraise such lands and fix the annual rental per acre therefor; such charge to be approved by the state board of control.

§ 3. **Lease executed.** Whenever any lease is delivered to the applicant by the surveyor-general the lessee shall within fifteen days thereafter, execute and return such lease to the state surveyor-general and make payment of the first annual rental. The surveyor-general shall receive the money and give a receipt therefor. All subsequent annual payments of rental must be paid to the state surveyor-general in like

manner fifteen days after they become due. In case payments are not made as herein provided, the lease and all rights thereunder shall cease and terminate.

§ 4. **Term of lease.** No lease shall be for a period longer than ten years, and such lease shall terminate upon the sale of said lands, or any portion thereof, by the state and the lessee shall be notified by registered mail by the state surveyor-general upon the sale of said land at public auction to the highest bidder as provided in that certain act entitled "An act providing for the sale of certain state lands," approved May 19, 1915. The date of the termination of the lease shall be on the date the certificate of purchase is issued to the purchaser of the land from the state of California by the register of the state land office, except when a lease embraces land suitable for cultivation and an application from an actual settler to purchase said land is received and filed by the surveyor-general, then the lease shall terminate on the date said application is filed of record in the surveyor-general's office and the lessee is to be notified by registered mail of the filing of said application to purchase said land, or any portion thereof, from the state and of the termination of the lease. Possession under any lease hereby authorized shall not be held, deemed or construed to be adverse to that of any person who becomes an actual settler upon any portion of land in such lease described, with intent to purchase the same in the manner provided by law.

§ 5. **Land designated as bases for indemnity selections.** Any lease for sixteenth and thirty-sixth sections or any portion thereof which may now or may hereafter be included within the exterior boundaries of a national reservation or of a reserve, or within the exterior boundaries of lands withdrawn from public entry, shall terminate whenever the state of California shall designate said lands as bases for indemnity selections as provided by law. The lessee is to be notified by the surveyor-general by registered mail whenever the state of California designates the land as bases for indemnity selection or selections.

§ 6. **Surrender of lease.** If a lease is terminated by reason of the filing of an application to purchase land suitable for cultivation, or by the sale of land at public auction, or by the designation of land as bases for indemnity selection or selections, the lessee shall surrender the lease to the surveyor-general and receive in exchange therefor from the surveyor-general a certificate showing the proportionate amount of the annual payment to be refunded to the lessee, for the tract or tracts of land that have been disposed of by the state of California, and the state controller, upon the surrender to him of the said surveyor-general's certificate, with the approval of the board of control indorsed thereon, shall issue to the lessee a warrant for the said amount payable out of the state school land fund and the state treasurer shall pay the same. If all the tracts of land described in said surrendered lease have not been disposed of by the state, the lessee shall be entitled, without the payment of any additional fee, to a new lease for the remaining tracts of land for the balance of the unexpired term of the surrendered lease, at the same annual rental per acre.

§ 7. **Duty of surveyor-general.** The surveyor-general is hereby authorized to prepare, make, execute and deliver all papers, instruments, and documents and to do any and all things necessary to carry out the provisions of this act.

§ 8. **Payment of moneys.** All moneys received as rental for such lands above mentioned shall be paid into the state school land fund.

§ 9. **Appropriation.** There is hereby appropriated out of any moneys in the state treasury to the credit of the state school land fund, not otherwise appropriated, the sum of three thousand dollars, or so much thereof as may be necessary, to be used in refunding unearned rentals under the provisions of section six of this act.

ACT 2875f.

An act to provide for the forfeiture of certain lands to the state in the event of the nonpayment of delinquent interest upon any part of the unpaid portion of the purchase price thereof, together with penalties and costs as herein provided, as well as for the forfeiture of all moneys previously paid thereon, whether for principal or interest; prescribing the duties of certain public officers with respect thereto; providing for the giving of notice hereof; prescribing certain remedies; and making an appropriation for the purposes of this act.

[Approved May 24, 1917. Stats. 1917, p. 926. In effect July 27, 1917.]

§ 1. **Lands to be sold unless interest and penalties paid.** All lands sold by this state for which certificates of purchase were issued prior to the first day of May, A. D. one thousand nine hundred eleven, for which full payment was not made at the time of purchase, and upon which any interest upon any part of the unpaid portion of the purchase price thereof is delinquent at the time this act shall take effect, shall be forfeited to the state, without the necessity of re-entry or judicial ascertainment, and shall revert to the particular class of land to which it originally belonged, to be resold under the provisions of existing law, or any future law, unless all such delinquent interest, together with all additional interest becoming due on the first day of January, A. D. one thousand nine hundred eighteen, and all penalties and costs herein specified, shall be fully paid, as herein provided, on or before the thirtieth day of June, A. D. one thousand nine hundred eighteen.

§ 2. **List of lands upon which payments delinquent.** On or before the first day of October, A. D. one thousand nine hundred seventeen, the register of the state land office shall prepare, or cause to be prepared, statements showing, by counties, and by proper legal descriptions, all lands in each of the several counties in this state for which there are outstanding and not annulled as provided by article six of chapter one of title eight of part three of the Political Code any certificate or certificates of purchase which were issued prior to the first day of May, A. D. one thousand nine hundred eleven, and upon which any interest upon any part of the unpaid portion of the purchase price is delinquent at the time this act shall take effect. Such statements shall also show the

name and postoffice address of the purchaser as the same may appear upon the records of the register's office, and the name and postoffice address of the assignee, grantee or successor in interest of such purchaser in all cases wherein notice of any assignment of such certificate of purchase, or of any conveyance or other transfer of title of any part of the lands therein described shall have been filed in said office prior to the date herein first mentioned. Such statement shall also show the number and date of the survey or location and of the certificate of purchase, the amount of interest paid, the amount of interest unpaid, and the amount of interest then due. No lands within any reclamation district must be embraced in any such statement if the certificate of the board of supervisors that works of reclamation have been commenced in such district has been filed in the register's office prior to the taking effect of this act.

§ 3. **Demand for payment of delinquent interest.** Demand is hereby made upon all persons who are or who may become liable for the payment of any interest which is delinquent upon any part of the unpaid portion of the purchase price of any of the lands embraced within any of such statements for the payment of all such delinquent interest, together with the costs hereby imposed, on or before the thirty-first day of December, A. D. one thousand nine hundred seventeen; and in the event of the nonpayment of any portion of such delinquent interest, as above provided, a penalty of twenty per cent of the aggregate amount then delinquent is hereby imposed, in each case, upon the person or persons liable for the payment thereof. Except as otherwise provided in sections four, five and six of this act, in the event any portion of such delinquent interest, together with such penalty and costs, and all additional interest falling due on the first day of January, A. D. one thousand nine hundred eighteen, be not paid on or before the thirtieth day of June, A. D. one thousand nine hundred eighteen, all lands on account of the purchase price of which such delinquency shall then exist are hereby declared to be forfeited to the state, together with all moneys previously paid on account of the purchase price thereof, whether for principal or interest, and all such certificates of purchase are hereby declared to be ipso facto null and void from and after such date last mentioned.

§ 4. **If owner has died without disposing of lands.** In the event the owner of any such certificate of purchase shall have died, without disposing of the lands therein described, and no administration of his estate has been had, the time of payment limited by the provisions of the preceding section is hereby extended for a period of six months; provided, however, that appropriate probate proceedings must be commenced in each case not later than December thirty-first, A. D. one thousand nine hundred seventeen, and written notice thereof forwarded by registered mail to the register of the state land office. In such cases the twenty per cent penalty imposed by section three hereof shall not attach until July first, A. D. one thousand nine hundred eighteen, and such forfeiture shall not become operative until December thirty-first of said year.

§ 5. **Lands conveyed exempted from forfeiture, when.** Any person having a conveyance of the whole or any portion of the lands described in any certificate of purchase included in any such statement, but to whom the certificate has never been surrendered, may protect his lands from forfeiture by paying such proportion of the interest delinquent upon all the lands in such certificate described as the acreage claimed by him bears to the aggregate acreage embraced in such certificate. He shall first, however, file with the register of the state land office satisfactory evidence of his possessory right to such land, and obtain from the latter a certificate, directed to the treasurer of the proper county, permitting such payment and stating the amount to be paid, which shall in all cases include the costs imposed by section nine hereof. Upon such payment being made within the time herein limited such land shall be, and hereby is, excepted from the forfeiture prescribed in this act. Said certificate of purchase shall become null and void only as to the remaining lands therein described, and the register in preparing for record the notices of forfeiture provided for in section ten hereof shall omit therefrom all lands upon which the delinquent interest has been paid as in this section permitted. Should due compliance be made with all other provisions of law governing the issuance of patents, a patent shall issue in the name of the original purchaser of such excepted land, but shall be delivered to the person by whom such payment was made, and the title thereby granted shall inure to the benefit of such person, his heirs or assigns.

§ 6. **Lands included.** This act shall extend to and include all unlisted lieu lands and all unsegregated swamp and overflowed lands sold under the authority of any law of this state; subject to the proviso that instead of the land itself becoming forfeit for nonpayment of delinquent interest, all right, title and interest therein or thereto heretofore acquired or hereafter to be acquired prior to June thirtieth, A. D. one thousand nine hundred eighteen, by the original purchaser, his heirs and assigns, shall become and hereby is declared to be forfeit to the state in the event of such nonpayment; and subject to the further proviso that all purchasers of such unlisted lieu lands or of such unsegregated swamp and overflowed lands, their heirs and assigns, who protect themselves against such forfeiture by making the payments required by this act, shall not thereby be deprived of any existing right to receive restitution of all sums paid on account of the purchase price of such lands, whether for principal or interest, upon duly complying with all provisions of law governing such restitution.

§ 7. **Payment of interest by December 31, 1917. Penalties. Publication of notice.** Upon completing the statements required by section two hereof, the register shall add thereto a demand that all interest shown to be delinquent therein shall be paid on or before December thirty-first, A. D. one thousand nine hundred seventeen, to the treasurer of the proper county, together with the sum of three dollars costs, and a notice that if the same be not so paid a penalty of twenty per cent will be added thereto as provided in section three hereof, and a further notice that unless the whole sum delinquent, together with such costs and penalty,

and all additional interest falling due January first, A. D. one thousand nine hundred eighteen, be paid on or before June thirtieth, A. D. one thousand nine hundred eighteen, the lands in said statements described, together with all moneys previously paid on account of the purchase price thereof, whether for principal or interest, will be forfeit to the state in accordance with the provisions hereof, and that all such certificates of purchase will become ipso facto null and void. He shall thereupon cause each such statement, together with such demand and notice, to be published once a week for four weeks successively in some newspaper published in the county wherein the lands described in such statement are situate, or, if there be no newspaper published in such county, such publication shall be made in a newspaper published in an adjoining county.

§ 8. **Copies sent to county officers and persons interested in lands. Duty of assessor.** In addition to such publication, the register shall, not later than October fifteenth, A. D. one thousand nine hundred seventeen, forward copies of such statements, demands and notice, by registered mail to the treasurer and to the auditor and to the assessor of each county wherein any of said lands may be situate, and shall likewise forward by registered mail to each person shown by the records of his office to have any interest in any of such lands, either as purchaser, or as assignee, grantee, distributee, or other successor in interest of such purchaser, a copy of so much of said statements as pertains to the lands wherein such person may appear to have any interest, together with such demand and notice, directed to such person at his last known place of residence or of business as the same appears upon the records of the register's office.

It shall be the duty of each county assessor to whom a copy of any such statement shall be sent, immediately upon receipt thereof, to cause the same to be carefuly compared with the records of assessments in his office of all tracts of land appearing in such list, and in the event it shall appear from such comparison that any person or persons whose names are not included in the register's statement are shown by such assessment records to have any interest in any part of the lands described in such statement, the assessor must forthwith return, by registered mail, to the register of the state land office a statement containing a description of the land affected and the names and addresses, as the same appear upon his records, of all persons appearing to have any interest therein and not included in the register's statement. In every such case the assessor must return his statement to the register within ten days after the receipt by him of the register's statement. Upon receipt of any such return the register shall without delay, forward to each person therein named, in the same manner as above provided, a copy of so much of said statement as pertains to the lands wherein such person is shown by the assessor's return to have any interest, to which shall be appended such demand and notice.

§ 9. **Costs.** The sum of three dollars to cover the costs of such publication and of such mailing is hereby imposed upon the owner or owners of each such certificate of purchase, as well as upon each person

who may have acquired by purchase an interest in all or some portion of the lands in such certificate described, but to whom the certificate has never been surrendered, and it shall be the duty of the treasurer of each county wherein any part of such land may be situate to require the payment of such costs, in all cases, in addition to the delinquent interest, and penalty, if any, and to account for the same in his settlements with the state controller and treasurer, who are hereby authorized and directed to pay all sums so collected for costs into the general fund of the state treasury.

§ 10. **Notice of forfeiture.** Immediately following the thirtieth day of June, A. D. one thousand nine hundred eighteen, the register shall note upon the records of his office the forfeiture herein and hereby declared, and shall forward to the recorder of each county wherein any of said lands may be situate a notice of such forfeiture, in which there shall be embodied the same data required by section two hereof, supplemented by a statement of the costs, penalties and additional interest accrued at the date of forfeiture. It shall be the duty of the recorder to receive and file such notice and to record the same in a book of deeds. Such notice from the time it is filed with the recorder for record is constructive notice of the contents thereof to subsequent purchasers and mortgagees and to all other persons who may thereafter attempt to acquire any interest in, or lien upon, any of the lands in such notice described. In the event any additional forfeiture shall occur on the first day of January, A. D. one thousand nine hundred nineteen, as provided in section four hereof, the register and each county recorder shall proceed with respect to such lands as before, and with like force and effect.

§ 11. **Action to annul forfeiture.** In the event any land shall be forfeited under the provisions hereof upon which all interest, costs, penalties and accruing interest had been actually paid prior to such forfeiture, though for any reason not properly credited, the person or persons having a beneficial interest therein may, within one year following the date of such forfeiture, commence an action in the superior court of the county of Sacramento against the register of the state land office for the purpose of having such forfeiture annulled and set aside. And if it be proven to the satisfaction of the court, at the trial of such action, that such payment was in fact made prior to the date upon which such forfeiture occurred, the court shall render judgment annulling and setting aside such forfeiture, and thereupon the plaintiff or plaintiffs in such action shall be restored to his or their former estate in said land, upon making payment of all interest accruing thereon to the date of restoration.

§ 12. **Right of state to enforce payment.** This act is cumulative and shall not be construed to deny to the state the right to institute any legal proceedings that may be deemed necessary to enforce the payment of all such delinquent interest, or to procure judgments foreclosing the interests of any and all persons in any of such lands, and annulling any or all of such certificates of purchase. Nor shall anything herein contained ever be deemed, held or construed to give to or confer upon the

holder or holders of any of such certificates of purchase, as against the state of California, any other or greater right to any land therein described than is now possessed by the holder or holders of such certificates.

§ 13. **Appropriation.** The sum of four thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, to be used in accordance with law to defray the costs of the publication and mailing herein provided for.

ACT 2875g.

An act to determine and to declare the effect of state land patents in certain cases.

[Approved May 17, 1917. Stats. 1917, p. 570. In effect July 27, 1917.]

§ 1. **Quitclaim deed not in effect if restitution not made.** Whenever any person has, in conformity to the provisions of existing law, conveyed any land to the state of California by quitclaim deed, duly executed, delivered, and accepted by the register of the state land office, for the purpose of receiving restitution of the purchase price thereof, as provided by law, and such restitution has not been made, and a patent for such land shall thereafter issue in the name of the original purchaser, the title granted by such patent shall vest in, and inure to the benefit of, such original purchaser, his heirs, assigns, and successors in interest, notwithstanding the execution, delivery and acceptance of such quitclaim deed, as fully and completely as if such quitclaim deed had never been made, executed, delivered, or accepted.

§ 2. **Certificate of register of state land office.** Upon the issuance of such patent, the register of the state land office shall make and issue to the patentee therein named, his heirs, assigns, and successors in interest, a certificate under the seal of his office, reciting the making, execution, delivery and acceptance of such quitclaim deed, and further reciting the fact that no restitution of the purchase price of such land was made. Upon the presentation of such certificate to the county recorder of the county wherein such land is situate, it shall be the duty of the recorder to record the same in a book of deeds in the records of such county.

ACT 2875h.

An act authorizing the state board of control for and on behalf of the state of California to retransfer a certain tract of land back to original owners. [Approved May 28, 1917. Stats. 1917, p. 1282. In effect July 27, 1917.]

This act authorized the transfer of certain lands in Glenn County to Ella Glenn Leonard, F. B. Glenn and C. H. Glenn.

ACT 2884.

An act to provide for the acquisition by municipalities of land for public park or playground purposes by condemnation, and for the establish-

ment of assessment districts and the assessment of property therein to pay the expenses of acquiring such land.

[Approved April 22, 1909. Stats. 1909, p. 1066.]

Amended, Stats. Ex. Sess. 1911, p. 17; 1913, p. 414; 1917, p. 205.

§ 4. Protests. Contents. Protest signed by owners of majority of frontage. Protest not signed by owners of majority of frontage. Any person interested, objecting to said improvement, or to the extent of the assessment district described in said ordinance of intention, may file a written protest with the clerk of the city council, within thirty days after the first publication of the notice required by section three of this act. Every such protest must contain a description of the property in which each signer thereof is interested, sufficient to identify the same, and must set forth the nature of his interest therein, and must be accompanied by the affidavit of one of the signers thereof that each signature thereof is the genuine signature of the person whose name is thereto subscribed; and in case any signature is made by an agent, there must be attached to the protest the affidavit of the agent that he is duly authorized to sign such protest. Any protest not complying with the foregoing requirements, shall not be considered by the city council. In the case of property held by tenancy in common, if any cotenant sign such protest, only the proportionate share of the frontage thereof represented by his interest therein, shall be counted in determining the amount of frontage represented by such protest. The clerk shall indorse on every such protest the date of its reception by him, and at the next regular meeting of the city council, after the expiration of the time for filing protests, shall present to said city council all protests so filed with him. If such protests are against said improvement, and said city council at said meeting or at any other time to which the hearing of said protests may be adjourned, finds that the same are signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district, all further proceedings under said ordinance of intention shall be barred, and no new ordinance of intention for the same improvement shall be passed within six months after the presentation of such protests to the city council, unless the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district shall, in the meantime, petition therefor. If such protests are against the improvement and the council finds that they are not signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within the assessment district, or if such protests are only against the extent of the assessment district, the council shall hear said protests at said meeting, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision shall be final and conclusive. If such protests are sustained, no further proceedings shall be had under said ordinance of intention, but a new ordinance of intention for the same improvement may be passed at any time. If such protests are denied, the proceedings shall continue as if such protests had not been made. At the expiration of the time within which protests may be filed, if none are filed, or if protests are filed, and after hearing are denied, as above

provided, then upon such denial, the city council shall be deemed to have acquired jurisdiction to order the improvement described in the ordinance of intention.

§ 24. **Deed to purchaser. Service of notice by street superintendent.** At any time after the expiration of twelve months from the date of sale, the street superintendent must execute to the purchaser, or his assignee on his application, if such purchaser or assignee has complied with the provisions of this section, a deed of the property sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof, and the fact that no person has redeemed the property. The street superintendent shall receive from the applicant for a deed, one dollar for making such deed, unless the municipality is the purchaser, in which case no charge shall be made therefor, and at least thirty days before the deed is executed the street superintendent must serve upon the owner of the property, and upon the occupant of such property if the same is occupied, a written notice, setting forth a description of the property that said property has been sold for a delinquent assessment (specifying the improvement for which the same was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice and the time when the deed will be executed to the purchaser or assignee. If the said owner cannot be found, after due diligence, said notice must be posted by the street superintendent in a conspicuous place upon said property, at least thirty days before the time stated therein, at which the deed will be executed. The street superintendent must file with the city clerk an affidavit or affidavits showing that notice of such application has been given, as herein required, and if the notice was not served on the owner of the property personally, that due diligence was used to find said owner. If redemption of the property is made after such affidavits are filed, and more than eleven months from the date of sale, the person making such redemption must pay, in addition to the other amounts required, three dollars for the service of notice and the making of such affidavits, which amount shall be paid over to the street superintendent and by him paid into the city treasury. No deed for any property sold for delinquent assessment shall be made until all the provisions of this section have been complied with.

TITLE 440.

PUBLIC UTILITIES.

ACT 2886.

An act to provide for the organization of the railroad commission, to define its powers and duties and the rights, remedies, powers and duties of public utilities and their officers, and the rights and remedies of patrons of public utilities, and to provide penalties for offenses by public utilities, their officers, agents and employees and by other persons and corporations, creating the "railroad commission fund" and appropriating the moneys therein to carry out the provisions of this act, and repealing Title XV of Part IV of Division First of the Civil

Code and all acts and parts of acts inconsistent with the provisions of this act.

[Approved April 23, 1915. Stats. 1915, p. 115.]

Amended 1917; Stats. 1917, pp. 168, 199, 261, 320, 1329.

The amendments of 1917 follow:

§ 2. **"Commission."** (a) The term "commission," when used in this act, means the railroad commission of the state of California.

(b) **"Commissioner."** The term "commissioner," when used in this act, means one of the members of the commission.

(c) **"Corporation."** The term "corporation," when used in this act, includes a corporation, a company, an association and a joint stock association.

(d) **"Person."** The term "person," when used in this act, includes an individual, a firm and a copartnership.

(e) **"Transportation of persons."** The term "transportation of persons," when used in this act, includes every service in connection with or incidental to the safety, comfort or convenience of the person transported and the receipt, carriage and delivery of such person and his baggage.

(f) **"Transportation of property."** The term "transportation of property," when used in this act, includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage and handling, and the transmission of credit by express corporations.

(g) **"Street railroad."** The term "street railroad," when used in this act, includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city and county, or city or town, together with all real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property; but the term "street railroad," when used in this act, shall not include a railway constituting or used as a part of a commercial or interurban railway.

(h) **"Street railroad corporation."** The term "street railroad corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any street railroad for compensation within this state.

(i) **"Railroad."** The term "railroad," when used in this act, includes every commercial, interurban and other railway other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connec-

tion therewith, owned, controlled, operated or managed for public use in the transportation of persons or property.

(j) **"Railroad corporation."** The term "railroad corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any railroad for compensation within this state.

(k) **"Express corporation."** The term "express corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or stage or auto stage line within this state.

(l) **"Common carrier."** The term "common carrier," when used in this act includes every railroad corporation; street railroad corporation; express corporation; dispatch, sleeping-car, dining-car, drawing-room car, freight, freight line, refrigerator, oil, stock, fruit, car-loaning, car-renting, car-loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel engaged in the transportation of persons or property for compensation between points upon the inland waters of this state, or regularly engaged in the transportation of persons or property for compensation upon the high seas on regular routes between points within this state. The term "inland waters" as used in this subsection includes all navigable waters within the state of California other than the high seas.

(m) **"Pipe-line."** The term "pipe-line," when used in this act, includes all real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the transmission, storage, distribution or delivery of crude oil or other fluid substances except water through pipe-lines.

(n) **"Pipe-line corporation."** The term "pipe-line corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any pipe-line for compensation within this state.

(o) **"Gas plant."** The term "gas plant," when used in this act, includes all real estate, fixtures, and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas, natural or manufactured, for light, heat or power.

(p) **"Gas corporation."** The term "gas corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through his tenants and not for sale to others.

(q) **"Electric plant."** The term "electric plant," when used in this act, includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of electricity for light, heat or power, and all conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

(r) **"Electrical corporation."** The term "electrical corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

(s) **"Telephone line."** The term "telephone line," when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.

(t) **"Telephone corporation."** The term "telephone corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telephone line for compensation within this state.

(u) **"Telegraph line."** The term "telegraph line," when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telegraph, whether such communication is had with or without the use of transmission wires.

(v) **"Telegraph corporation."** The term "telegraph corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telegraph line for compensation within this state.

(w) **"Water system."** The term "water system," when used in this act, includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distributio, sale, furnishing, carriage, apportionment, or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use.

(x) **"Water corporation."** The term "water corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, con-

trolling, operating or managing any water system for compensation within this state.

(y) **"Vessel."** The term "vessel," when used in this act, includes every species of water craft, by whatsoever power operated, which is owned, controlled, operated or managed for public use in the transportation of persons or property, except row-boats, sailing boats and barges under twenty tons dead weight carrying capacity, and vessels propelled by steam, gas, fluid naphtha, electricity, or other motive power under the burden of five tons net register.

(z) **"Wharfinger."** The term "wharfinger," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees, appointed by any court whatsoever, owning, controlling, operating or managing any dock, wharf or structure used by vessels in connection with or to facilitate the receipt or discharge of freight or passengers for compensation within this state.

(aa) **"Warehouseman."** The term "warehouseman," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any building or structure in which property is regularly stored for compensation within this state, in connection with or to facilitate the transportation of property by a common carrier or vessel, or the loading or unloading of the same, other than a dock, wharf or structure, owned, operated, controlled or managed by a wharfinger.

(bb) **"Public utility."** The term "public utility," when used in this act, includes every common carrier, pipe-line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger and warehouseman, where the service is performed for or the commodity delivered to the public or any portion thereof. The term "public or any portion thereof" as herein used means the public generally, or any limited portion of the public including a person, private corporation, municipality or other political subdivision of the state, for which the service is performed or to which the commodity is delivered, and whenever any common carrier, pipe-line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger or warehouseman performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, pipe-line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger or warehouseman is hereby declared to be a public utility subject to the jurisdiction, control and regulation of the commission and the provisions of this act. Furthermore, when any person or corporation performs any service or delivers any commodity to any person or persons, private corporation or corporations, municipality or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, perform such service or deliver such commodity to or for the corporation or corporations and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act. [Amendment approved May 29, 1917; Stats. 1917, p. 1329.]

§ 17. **No transportation until rates are filed.** (a) 1. No common carrier subject to the provisions of this act shall engage or participate in the transportation of persons or property, between points within this state, until its schedules of rates, fares, charges and classifications shall have been filed and published in accordance with the provisions of this act.

2. **Different rate not to be charged.** No common carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares or charges so specified, except upon order of the commission as hereinafter provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons.

3. **Passes. Express matter to company's officer.** No common carrier subject to the provisions of this act shall, directly or indirectly, issue, give or tender any free ticket, free pass or free or reduced-rate transportation for passengers between points within this state, except to its officers, agents, employees, attorneys, physicians and surgeons, and members of their families; to ministers of religion, traveling secretaries of railroad men's religious associations, or executive officers, organizers or agents of railroad employees' mutual benefit associations giving the greater portion of their time to the work of any such association; inmates of hospitals or charitable or eleemosynary institutions, and persons exclusively engaged in charitable or eleemosynary work, and persons and property engaged or employed in educational work or scientific research or in patriotic work when permitted by the commission; to the executive officers of mercantile or promotion boards or bodies within this state when traveling in the performance of duties affecting the advancement of the business of such boards or bodies, or the development of trade or industry within or without this state, when authorized by the commission; to hotel employees of season resort hotels, when authorized by the commission; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers, going and returning, of livestock, poultry, milk, fruit and other freight, under uniform and nondiscriminatory regulations; to employees of sleeping-car corporations, express corporations and telegraph and telephone corporations; to railway mail service employees, United States internal revenue officers, postoffice inspectors, customs officers and inspectors and immigration inspectors when traveling in the course of their official duty; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such persons; pro-

vided, that the term "employees," as used in this section, shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such carrier, ex-employees traveling for the purpose of entering the service of any such carrier, and the remains of persons dying while in the employment of any such carrier; and the term "families," as used in this section, shall include the families of those persons heretofore named in this proviso, and the families of persons killed, and the widows during widowhood and minor children during minority of persons who died while in the service of any such carrier; and provided, further, that no free ticket, free pass or free or reduced-rate transportation shall be issued, given or tendered to any officer, agent or employee of a common carrier, who is at the same time a shipper or receiver of freight, or an officer, agent or employee of a shipper or receiver of freight, unless such officer, agent or employee devotes substantially his entire time to the service of such carrier; and provided, further, that the members of the railroad commission, their officers and employees, shall be entitled, when in the performance of their official duties, to free transportation over the lines of all common carriers within this state; and provided, further, that passenger transportation may issue to the proprietors and employees of newspapers and magazines and the members of their immediate families, in exchange for advertising space in such newspapers or magazines at full rates, subject however to such reasonable restriction as the commission may impose.

Nothing in this act contained shall be construed to prohibit the issue by express corporations of free or reduced-rate transportation for express matter to their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, or the interchange of free or reduced-rate transportation for passengers or express matter between common carriers, their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, where such common carriers are subject in whole or in part to the jurisdiction of the commission or of the interstate commerce commission, or where such common carriers, though not in whole or in part subject to the jurisdiction of this commission or of the interstate commerce commission, but which are engaged in the business of transporting passengers and freight by water between the United States and foreign countries, and are permitted by the interstate commerce act to interchange such free transportation with common carriers which are subject to the jurisdiction of the interstate commerce commission or to the jurisdiction of this commission; provided, that such express matter be for the personal use of the person to or for whom such free or reduced-rate transportation is granted, or of his family; nor to prohibit the issue of reduced-rate transportation by a common carrier to children attending an institution of learning; nor to prohibit the issue of passes or franks by telegraph or telephone corporations to their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, or the exchange of passes or franks between such telegraph and telephone corporations or between such corporations and such common carriers, for their officers, agents, employees, attorneys, physicians and surgeons, and members of their families; nor to prevent the carrying out of contracts for free or

reduced-rate passenger transportation heretofore made, founded upon adequate consideration and lawful when made; nor to prevent a common carrier from transporting, storing or handling, free or at reduced rates, the household goods and personal effects of its employees, of persons entering or leaving its service, and of persons killed or dying while in its service.

4. **United States, state, etc., property may be carried free in certain cases.** Every common carrier subject to the provisions of this act may transport, free or at reduced rates, persons or property for the United States, state, county or municipal governments, or for charitable purposes, or for patriotic purposes, or to provide relief in cases of general epidemic, pestilence or other calamitous visitation, and property to or from fairs or expositions for exhibit thereat; also contractors and their employees, material or supplies for use or engaged in carrying out their contracts with said carriers, for construction, operation or maintenance work or work incidental thereto on the line of the issuing carrier, to the extent only that such free or reduced-rate transportation is provided for in the specifications upon which the contract is based and in the contract itself. Common carriers may also enter into contracts with telegraph and telephone corporations for an exchange of service.

(b) **Rebates prohibited.** Except as in this section otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or person any form of contract or agreement or any rule or regulation or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility. [Amendment approved April 25, 1917; Stats. 1917, p. 199.]

§ 43. **No grade crossings without permission.** (a) No public road, highway or street shall hereafter be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without having first secured the permission of the commission; provided, that this subsection shall not apply to the replacement of lawfully existing tracks. The commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

(b) **Power to determine crossing point, etc. Payment of amount apportioned.** The commission shall have the exclusive power to determine

and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public road or highway by a railroad or street railroad and of a street by a railroad or vice versa, subject to the provisions of section two thousand six hundred ninety-four of the Political Code so far as applicable, and to alter, relocate or abolish any such crossing, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the construction, alteration, relocation or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected or between such corporations and the state, county, municipality or other political subdivision affected. It shall be the duty of each corporation and political subdivision to which any of the expense is apportioned to pay from the funds available therefor in its treasury the amount apportioned to it at the time and to the parties specified by the order of the commission and if the same is not paid in accordance with the commission's order the corporation or political subdivision entitled thereto under the commission's order shall have the right to sue therefor in any court of competent jurisdiction. If no such funds are available as aforesaid, it shall be the duty of the appropriate boards, officers and employees intrusted with the levy and collection of the taxes or assessments of such political subdivision to do all acts necessary to include in the next succeeding tax or assessment levy the amount due and to collect the same, whereupon the amount due shall be paid over to the corporation or corporations, the state, political subdivision, or political subdivisions entitled thereto under the commission's order. The commission shall have the power by order to designate the state, certain of said corporations, and political subdivisions, affected, to do all or specified portions of the acts required by any order of the commission made under the provisions of this subsection, and to prescribe the manner and the time within which the parties so designated shall be paid or reimbursed by the other corporations, the state and political subdivisions among which the expense of the work has been apportioned by the commission.

(c) 1. **Power to fix just compensation.** The commission shall have power in accordance with the procedure provided in this subsection to fix the just compensation to be paid for property or any interest in or to property to be taken or damaged in the separation or grades at any crossing specified in subsection (b) hereof, or for property or any interest in or to property to be taken or damaged in the construction, alteration or relocation, under the order or with the approval of the commission, of elevated tracks or subways for any railroad or street railroad over or under any public road, street, highway or private right of way, or of any public road, street or highway over or under the tracks of any railroad corporation or street railroad corporation; and upon the payment of the just compensation so fixed to make a final order of condemnation as hereinafter provided.

2. **Manner of commencing proceedings.** Proceedings under subsection (c) hereof may be commenced by order on the commission's own motion or by a petition filed by the state, county, city and county, incorporated city or town, other political subdivision, railroad corporation, or street railroad corporation affected. Any proceeding commenced under this subsection may be made a part of any proceeding commenced under subsection (b) hereof. Said petition shall set forth the name and interest of the petitioner, and said order on the commission's own motion and said petition shall set forth a statement of the purpose of the proceedings and the use for which property or interest in or to property is sought to be taken, a description of each piece of land or other property or interest in or to property sought to be taken, and whether the same includes the whole or only a part of an entire parcel or tract or piece of property or interest in or to property and the names and addresses of all owners and claimants thereof, if known, or a statement that they are unknown, and a statement of each railroad corporation, the state and political subdivision which in the opinion of the commission or the petitioner has an interest in the proceeding. Said petition shall pray that the commission fix the just compensation to be paid for the acquisition of or damage to the property and interest in or to property specified in the petition, that the commission designate the party or parties to the proceeding who shall pay such compensation and the owners and claimants of the property and interest in or to property condemned to whom such compensation shall be paid and that the commission make its final order of condemnation; provided, that when the proceeding is commenced by order on the commission's own motion said matters shall be included in the statement of the purpose of the proceeding. Said petition shall be duly verified and at the time the same is filed with the commission the petitioner shall also file the additional copies thereof equal in number to three or more than the number of owners and claimants named in the petition.

3. **Order to appear. Service. Publication. Notice of hearing. Amendment of petition.** Upon the filing of said petition with the commission or the making of said order on the commission's own motion, the commission shall make its order specifying the nature of the proceeding, containing a general description of the property and interest in or to property to be condemned, and directing the owners and claimants and the railroad corporations, street railroad corporations, and governmental authorities in interest named in said petition or order on the commission's own motion, who shall also be named in said order to show cause, to appear before the commission at a time and place specified in said order, to show cause, if any they have, why the commission should not proceed after hearing to fix the just compensation to be paid for the acquisition of or damage to the property and interest in or to property specified in said petition or order on the commission's own motion, to designate the party or parties to the proceeding who shall pay such compensation and the owners and claimants to whom such compensation shall be paid and to make its final order of condemnation. Said order to show cause shall direct the secretary of the commission to serve or cause to be served upon each said owner and claimant, railroad corpo-

ration, street railroad corporation and governmental authority in interest a copy of said order certified under the seal of the commission to which shall be attached a true and correct copy of the petition or order on the commission's own motion; provided, that when the proceeding is commenced by order on the commission's own motion said order to show cause may be incorporated in said order on the commission's own motion. Personal service shall be made in accordance with the provisions of the Code of Civil Procedure of the state of California; provided, that service may also be made by depositing a copy of said order to show cause certified under seal of the commission with a true copy of the petition or order on the commission's own motion attached thereto or made a part thereof in the United States mail, inclosed in a sealed envelope, registered, with postage prepaid, addressed to each owner or claimant, railroad corporation, street railroad corporation and governmental authority in interest named in said petition or order on the commission's own motion. If any owner or claimant named in the petition or order on the commission's own motion resides out of the state or has departed from the state or cannot after due diligence be found within the state, or conceals himself to avoid service, or is a corporation having no managing or business agent, cashier or secretary or other officer upon whom summons may be served, who, after due diligence, cannot be found within the state, and the fact appears by affidavit to the satisfaction of the commission, and it also appears by such affidavit or by the petition or order on the commission's own motion that a cause of action exists against such owner or claimant on whom service is to be made and that he is a necessary or proper party to the proceeding, the commission may make an order that the service be made on such owner or claimant by publication of the commission's said order to show cause. Said order of the commission shall direct that the publication be made in a newspaper to be designated by the commission as likely to give notice to the owner or claimant to be served, and for such time as the commission may find to be reasonable, at least once a week, but publication against an owner or claimant residing out of the state or absent therefrom shall not be less than two months. If the address of any owner or claimant as stated in the petition or order on the commission's own motion is out of the state, the secretary of the commission shall within fifteen days after the making and filing of said order to show cause, deposit or cause to be deposited a copy of said order to show cause certified under the seal of the commission, with a true and correct copy of the petition or order on the commission's own motion attached thereto or made a part thereof, in the United States mail, inclosed in a sealed envelope registered, with postage prepaid, addressed to such owner or claimant at the address specified in the petition or order on the commission's own motion. Personal service of a copy of the order to show cause and of the petition or order on the commission's own motion out of the state is equivalent to publication and deposit in the United States mail. Within ten days prior to the time set for the first hearing on the petition or order on the commission's own motion, which time shall be not less than thirty days after the filing of said petition or the making of

said order on the commission's own motion, the secretary shall serve or cause to be served upon the petitioner a written notice of such hearing, specifying the time and place at which such hearing shall be had. In all respects not in this paragraph otherwise provided, service and the proof of service shall be made as provided by the Code of Civil Procedure of the state of California. Upon the completion of service upon the petitioner or upon any owner or claimant, railroad corporation, street railroad corporation or governmental authority in interest named in the petition or order on the commission's own motion, the commission shall have full and complete jurisdiction in so far as such petitioner, owner or claimant, railroad corporation, street railroad corporation, or governmental authority in interest is concerned, to make each finding hereinafter referred to, to fix the just compensation to be paid for the acquisition of or damage to any property or interest in or to property specified in the petition or order on the commission's own motion, to designate the party or parties to the proceeding who shall pay such compensation and the owner or claimant to whom such compensation shall be paid and to make its final order of condemnation. The failure to make such service upon any person alleging that he is an owner or claimant or party in interest but not named in the petition or order on the commission's own motion or to acquire jurisdiction over such person shall in no way affect the jurisdiction of the commission over owners and claimants and parties in interest on whom service has been made as in this paragraph provided. The commission shall have power at any time subsequent to the filing of the petition, and prior to making and filing its finding of just compensation, to authorize the amendment of the petition, or in case the proceeding is by order on the commission's own motion to amend said order, by altering or modifying the description of said property, or interest in or to property, or by adding to or deducting from said property or interest in or to property, or by bringing in any additional party or parties and in each other respect including each jurisdictional allegation.

4. **Hearing. Finding.** At the time and place specified in said order to show cause, or at such other time and place as, for good cause, may be otherwise ordered by the commission, the commission shall proceed to a hearing upon the petition or order on the commission's own motion. When the proceeding has been submitted the commission shall make and file its finding upon the question whether the use to which the property or interest in or to property is to be applied is a use authorized by law and whether the taking is necessary to such use, and shall make and file its written finding and fixing the just compensation to be paid for said property or interest in or to property; provided, that if the commission finds that severance damages should be paid, the just compensation for such damages shall be found and stated separately. Said just compensation shall be fixed by the commission as of the day on which the petition was filed or the order on the commission's own motion was made. The commission shall also make its order designating the party or parties to the proceeding who shall pay the just compensation so fixed, or any portion thereof, the amounts in which it shall be paid, the times at which it shall be paid, the property or interest in or to prop-

erty for which it shall be paid, and the owners and claimants of such property or interest in or to property to whom it shall be paid. The commission may prescribe any other terms or conditions with reference to the payment of such compensation as to the commission may seem proper, including a provision that the money due be paid to the commission to be distributed to the parties entitled thereto. The party or parties whom the commission may designate to pay such compensation or any part thereof shall thereupon become liable therefor, and may be sued in any court of competent jurisdiction by the party or parties entitled to such compensation as provided in the commission's order; provided, that in cases in which the order of the commission authorizing any work to be done under the provisions of this section is permissive in character and not mandatory, the commission may prescribe the time within which the party receiving such permission must elect to proceed and notify the commission thereof, and only in the event such party elects to proceed and so notifies the commission shall any liability arise in such cases to pay the just compensation or any part thereof under the provisions of this subsection. When any political subdivision of the state is designated by the commission to pay such compensation or any portion thereof the same shall be collectible in the manner provided in subsection (*b*) hereof for the collection of expenses apportioned by the commission to political subdivisions of the state.

5. **Final order of condemnation.** When the just compensation has been paid in accordance with the commission's order made under the provisions of this subsection for property or interest in or to property, the commission shall make its final order of condemnation which must describe the property or interest in or to property condemned and the purpose of such condemnation. A copy of said order certified under the seal of the commission shall thereupon be filed in the office of the recorder of the county in which the property or interest in or to property therein described is situated, and thereupon the property or interest in or to property described therein shall vest in the parties and for the purposes specified in said order.

6. **Finding final. Petition for rehearing.** The finding of the commission on the question of the necessity for the taking and the finding, fixing the just compensation to be paid for any property or interest in or to property under the provisions of this subsection shall be final and shall not be subject to modification, alteration, reversal or review by any court of this state. The provisions of this act with reference to rehearing and review shall be applicable to the findings of the commission made and filed under the provisions of this section. Petitions for rehearing must be filed within twenty days from the date of making and filing the finding as to which a rehearing is desired. If a finding of the commission made and filed under the provisions of this section is set aside by the supreme court of the state of California, the matter shall be referred back to the commission for further action in a proceeding before the commission, and the commission shall have the right, on taking further action, to consider the entire testimony theretofore taken in the proceeding before the commission as well as such further testimony, if any, as may be presented in connection with such further action.

7. **Procedure not exclusive.** The procedure provided in this section shall be alternative and cumulative and not exclusive to the right to pursue any other procedure now or hereafter established providing for the acquisition under eminent domain proceedings of property or interest in or to property.

8. **Germane to jurisdiction.** The legislature hereby declares that subsection (*c*) hereof is enacted as a germane and cognate part of and as an aid to the jurisdiction of the railroad commission in the supervision and regulation of railroad and street railroad corporations.

9. **Right to receive damages.** Nothing in this section shall be construed to entitle any owner or claimant of property and interest in or to property to receive damages when the right to receive such damages does not exist under the laws of this state apart from the provisions of this section. [Amendment approved May 10, 1917; Stats. 1917, p. 320.]

§ 47. **Valuation of public utility property.** (a) The commission shall have power to ascertain for each purpose specified in this act, the value of the property of every public utility in this state and every fact and element of value which in its judgment may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain the value of all additions, betterments, extensions and new construction to the property of every public utility.

(b) **Petition setting forth intention to acquire public utility.** 1. Any county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or any other public corporation, each of which is hereinafter in this section at times referred to as the political subdivision, may, at any time, file with the commission either a petition, hereinafter in this section at times referred to as a petition of the first class, setting forth the intention of the political subdivision to acquire under eminent domain proceedings, or otherwise, the lands, property and rights of any character whatsoever of any public utility, or any part or portion thereof, or a petition, hereinafter in this section at times referred to as a petition of the second class, setting forth the intention of the political subdivision to initiate such proceedings as may be required under the law governing the political subdivision for the purpose of submitting to the voters of the political subdivision a proposition to acquire under eminent domain proceedings, or otherwise, the lands, property and rights of any character whatsoever of any public utility, or any part or portion thereof.

2. **Contents of petition. Commission asked to fix just compensation.** Each such petition shall contain the name of the political subdivision appearing as petitioner therein, a description of the lands, property and rights, or of the part or portion thereof, which the political subdivision intends to acquire, and the names and addresses of all owners and claimants thereof, including each trustee and mortgagee under each deed of trust and mortgage, if known, or a statement that they are unknown. The petition shall pray that the commission fix the just compensation which shall be paid by the political subdivision, under the law, for said lands, property and rights, or said part or portion thereof. The peti-

tion shall be signed in the name of the political subdivision and verified by the chairman or other presiding officer or by the secretary or clerk of the legislative or other governing body of the political subdivision. At the time the petition is filed, the petitioner shall also file with the commission additional copies thereof equivalent in number to three more than the number of owners and claimants named in the petition.

3. **Order to owners to appear before commission. Service. Publication. Notice of hearing to petitioner. Jurisdiction of commission.** Upon the filing of the petition, the commission shall make its order, specifying the nature of the proceeding, containing a general description of the lands, property and rights, or the part or portion thereof which petitioner desires to acquire by condemnation, or otherwise, and directing the owners and claimants named in the petition, who shall also be named in said order, to appear before the commission at a time and place specified in the order, to show cause, if any they have, why the commission should not proceed to hear the petition and to fix the just compensation to be paid for said lands, property and rights, or said part or portion thereof. The order shall direct the secretary of the commission to serve or cause to be served upon each said owner and claimant a copy of said order, certified under the seal of the commission, to which shall be attached a true and correct copy of the petition. Service shall be made in accordance with the provisions of the Code of Civil Procedure of the state of California; provided, that service may also be made by depositing a copy of said order to show cause, certified under the seal of the commission, with a true and correct copy of the petition attached thereto, in the United States mail, inclosed in a sealed envelope, registered, with postage prepaid, addressed to any owner or claimant at the address specified in the petition. If any owner or claimant named in the petition resides out of the state, or has departed from the state, or cannot, after due diligence, be found within the state, or conceals himself to avoid service, or is a corporation having no managing or business agent, cashier or secretary or other officer upon whom summons may be served, who, after due diligence, cannot be found within the state, and the fact appears by affidavit to the satisfaction of the commission, and it also appears by such affidavit or by the petition that a cause of action exists against the owner or claimant on whom the service is to be made or that he is a necessary or proper party to the proceeding, the commission shall make its order that the service be made on such owner or claimant by publication of the commission's said order to show cause. Said order of the commission shall direct that the publication be made in a newspaper to be designated by the commission as likely to give notice to the person to be served, and for such time as the commission may find to be reasonable, at least once a week; but publication against an owner or claimant residing out of the state, or absent therefrom shall be not less than two months. If the address of any owner or claimant, as stated in the petition, is out of the state, the secretary of the commission shall, within fifteen days after the making and filing of said order to show cause, deposit or cause to be deposited a copy of said order to show cause, certified under the seal of the commission, with a true and correct copy of the petition attached thereto, in the United States mail, inclosed in a sealed envelope, registered, with postage pre-

paid, addressed to such owner or claimant at the address specified in the petition. When publication is ordered, personal service of a copy of the order to show cause and of the petition out of the state is equivalent to publication and deposit in the United States mail. Within ten days prior to the time set for the first hearing on the petition, which time shall be not less than thirty days after the filing of the petition, the secretary of the commission shall serve or cause to be served upon the petitioner a written notice of such hearing, specifying the time and place at which such hearing will be held. In all respects not in this paragraph otherwise specified, service and the proof of service shall be made as provided by the Code of Civil Procedure of the state of California. Upon the completion of service upon the petitioner or upon any owner or claimant named in the petition, the commission shall have full and complete jurisdiction over such petitioner, owner or claimant, with full and complete jurisdiction, in so far as such petitioner, owner or claimant, is concerned, to make each finding hereinafter referred to. The failure to make service upon any person alleging that he is an owner or claimant but not named in the petition shall in no way affect the jurisdiction of the commission over owners and claimants on whom service has been made as in this paragraph provided.

4. **Hearing on petition. Amendment of petition. Finding fixing compensation. Severance damages.** At the time and place specified in said order to show cause, or at such other time and place as, for good cause, may be otherwise ordered by the commission, the commission shall proceed to a hearing on the petition. At such times and in such amounts as may be directed by the commission, the political subdivision must pay to the commission all extra costs as determined by the commission, which extra costs the commission may incur to comply with the requirements of section forty-seven (*b*) of this act, and if such amounts are not paid by the political subdivision as directed by the commission, the commission may suspend further proceedings on the petition. Evidence may be presented by the political subdivision, by each owner or claimant named in the petition, and by the commission. The commission shall have power, at any time subsequent to the filing of the petition, and prior to making and filing its finding as to just compensation, to authorize the amendment of the petition by altering or modifying the description of said lands, property and rights, or said part or portion thereof, or by adding to or deducting from said lands, property and rights, or said part or portion thereof, and in each other respect including each jurisdictional allegation. When the proceeding has been submitted, the commission shall make and file its written finding fixing, in a single sum, the just compensation to be paid by the political subdivision for said lands, property and rights, or said part or portion thereof; provided, that if the commission finds that severance damages should be paid, the just compensation for such damages shall be found and stated separately. Said just compensation shall be fixed by the commission as of the day on which the petition was filed with the commission.

5. **Acceptance by owner. Execution of deed by owner. Action on failure to execute deed.** Within twenty days after the commission has made and filed its finding, the owner of said lands, property and rights,

or of said part or portion thereof, may file with the legislative or other governing body of the political subdivision a written stipulation consenting and agreeing to accept the just compensation fixed by the commission. Upon the filing of such written stipulation, the political subdivision must proceed with all due diligence to provide the necessary funds under the law governing the providing of such funds for paying the just compensation fixed by the commission. Whenever the just compensation has been tendered by the political subdivision, a deed of grant, bargain and sale conveying the owner's right, title and interest in and to said lands, property and rights, or said part or portion thereof, to the political subdivision, shall be executed and delivered by the owner, and the other claimants who have any right, title or interest in the property shall execute appropriate instruments of conveyance or release, conveying or releasing to the political subdivision their respective rights, titles and interests therein. If said deed or said instruments of conveyance or release are not executed and delivered within sixty days after said tender has been made, the political subdivision may commence an action in a court of competent jurisdiction or proceed otherwise in the manner and for the purpose or purposes specified in the next paragraph of this section.

6. **Action to take lands, etc., under eminent domain proceedings. Proceedings to submit proposition to voters. Action commenced if voters approve.** In the case of a petition of the first class, if the owner does not file said stipulation within said twenty days, the political subdivision, within sixty days after the commission has made and filed its said finding, must commence an action in a court of competent jurisdiction in a manner in accordance with the provisions of law, to take under eminent domain proceedings said lands, property and rights, or said part or portion thereof. In the case of a petition of the second class, if the owner does not file said stipulation within said twenty days, the political subdivision, within sixty days after the commission has made and filed its said finding, must initiate proceedings for the purpose of submitting to its voters a proposition to acquire under eminent domain proceedings said lands, property and rights, or said part or portion thereof. The political subdivision shall not be required, in either case, to delay for more than twenty days after the commission has made and filed its finding, before commencing said further proceedings. In the case of a petition of the second class, if the voters of the political subdivision, shall thereafter, as provided by the law governing said political subdivision, vote in favor of any proposition to acquire under eminent domain proceedings, or otherwise, said lands, property and rights, or said part or portion thereof, the political subdivision shall, within sixty days after its voters have so voted in favor of such acquisition, commence an action in a court of competent jurisdiction in a manner in accordance with the provisions of law, to take under eminent domain proceedings said lands, property and rights, or said part or portion thereof, unless the owner shall have filed with the political subdivision a written stipulation consenting and agreeing to accept the just compensation fixed by the commission.

7. **Petition by owner on failure of political subdivision to take action. Notice to political subdivision to appear. Expenses of owner assessed.**

Against political subdivision. If the political subdivision, in a petition of the first class, fails to file said action in a court of competent jurisdiction within said period of sixty days after the commission has made and filed its said finding, or if the political subdivision in a petition of the second class, fails to proceed diligently to submit said proposition to its voters or fails, if its voters have voted in favor of the acquisition of said lands, property and rights, or of said part or portion thereof, to file said action in a court of competent jurisdiction within sixty days after the voters have voted in favor of said acquisition, the owner of such lands, property and rights, or of said part or portion thereof, may file with the commission a verified petition in writing setting forth said fact, which petition may also set forth in detail the expenditures which the owner has necessarily incurred in the proceeding before the commission. The commission shall thereupon cause written notice of not less than ten days, with a true and correct copy of the owner's said petition attached thereto, to be served upon the political subdivision, to appear before the commission at a time and place specified in the notice, to show cause why an order should not be made by the commission (1) finding that the political subdivision has failed to pursue diligently its rights herein conferred, (2) determining that said finding as to just compensation shall no longer be of any force or effect, and (3) determining the reasonable expenditures necessarily incurred by the owner which, in the opinion of the commission, should be assessed against the political subdivision. If the commission shall determine that the political subdivision, in case of a petition of the first class, has failed to commence said action in a court of competent jurisdiction within said period of sixty days after the commission has made and filed its said finding of just compensation, or that the political subdivision, in case of a petition of the second class, has failed to proceed diligently to submit said proposition to its voters or has failed, after its voters have voted in favor of the acquisition of said lands, property or rights, or said part or portion thereof, to file said action in a court of competent jurisdiction within said sixty days after the voters have voted in favor of said acquisition, the commission shall make and file its order declaring that said finding shall no longer be of any force or effect, and makes its finding as to the reasonable expenditures necessarily incurred by the owner in the proceeding before the commission, which the commission may find should be assessed against the political subdivision. The political subdivision shall thereupon be liable to the owner in the amount thus found by the commission and the owner may thereupon maintain an action against the political subdivision for said amount in any court of competent jurisdiction.

8. **Finding of commission final. Judgment of court.** The finding of the commission fixing the just compensation to be paid by the political subdivision for said lands, property and rights, or said part or portion thereof, shall be final and shall not be subject to modification, alteration, reversal or review by any court of this state. The court in which the political subdivision shall have commenced its action, subsequent to the making and filing by the commission of its finding as to just compensation, as hereinbefore specified, if said court shall first decide that the political subdivision has the right and power under the law to

take said lands, property and rights, or said part or portion thereof, shall enter a judgment in favor of the complainant in said action, as provided by law, fixing as the just compensation which shall be paid for the taking of said lands, property and rights, or said part or portion thereof, the just compensation fixed by the commission. The judgment may include therein the allowance of such costs between the parties as is provided for in the law of eminent domain of this state. The judgment of said court in so far as it refers to the just compensation to be paid for said lands, property and rights, or said part or portion thereof, shall be final and shall not be subject to modification, alteration, reversal or review by any court except as hereinafter in section forty-seven (*b*) of this act specified. The judgment of said court shall include a provision, in substance, that said judgment is subject to modification by reason of such increase or decrease in the just compensation to be paid as may thereafter be certified to said court by the commission, as hereinafter in section forty-seven (*b*) of this act provided.

9. **Petition by owner asking increase in compensation. Petition by political subdivision asking decrease in compensation. Hearing. Order increasing or decreasing. compensation. Judgment of court modified.** At any time within thirty days subsequent to the entry of said judgment of said court, the owner of said lands, property and rights, or said part or portion thereof, may file with the commission a verified petition in writing, alleging that by reason of expenditures made by the owner subsequent to the date of the filing of the original petition with the commission, for the purpose of preserving or improving said lands, property and rights, or said part or portion thereof, or by reason of other acts and occurrences subsequent to said date, the just compensation theretofore fixed by the commission should be increased and praying that the commission make its finding increasing said just compensation. At any time within thirty days subsequent to the entry of said judgment of said court, the political subdivision may file with the commission a verified petition in writing, alleging that by reason of loss or destruction of said lands, property and rights, or said part or portion thereof, or a part thereof, or by reason of depreciation or deterioration thereof or by reason of other acts and occurrences, subsequent to the date of the filing of the original petition with the commission, the just compensation theretofore fixed by the commission should be decreased and praying that the commission make its finding decreasing said just compensation. The commission shall, in each instance, cause a copy of said petition or petitions to be served upon each party, other than the petitioner, who was named as the political subdivision, owner or claimant in the original proceeding before the commission, together with a written notice specifying the time and place of hearing on said petition or petitions, which time shall be within forty-five days after the entry of said judgment by said court, and shall cause written notice of the time and place of said hearing to be served upon each petitioner in said petition or petitions. If both such petitions are filed, the commission shall have the power to consolidate said petitions for hearing and decision. After a hearing, the commission shall make and file its finding fixing, as of the date on which such finding is made and filed, the extent to which the just compensation theretofore fixed should be increased or

decreased by reason of the matters alleged in said petition or petitions. If the claim is made that the just compensation theretofore fixed by the commission should be increased by reason of expenditures made by the owner subsequent to the date of the filing of the original petition with the commission for the purpose of preserving or improving said lands, property and rights, or said part or portion thereof, the commission may increase said just compensation, by reason of such expenditures, only to the extent to which the commission shall determine that such expenditures were beneficial to said lands, property and rights, or said part or portion thereof, and reasonably and prudently made. The finding of the commission fixing the extent to which the just compensation theretofore fixed should be thus increased or decreased shall be final and shall not be subject to modification, alteration, reversal or review by any court of this state. The commission shall thereupon transmit to said court its finding, certified under the seal of the commission, fixing the extent to which the just compensation theretofore fixed by the commission shall be increased or decreased. Said court shall thereupon modify its judgment so as to conform with said finding of the commission. The judgment of said court, as thus modified, in so far as it refers to the just compensation to be paid for said lands, property and rights, or said part or portion thereof, shall be final and shall not be subject to modification, alteration, reversal or review by any court. The filing of either or both the petitions in this paragraph specified shall not act as a stay of the judgment in condemnation, but upon the payment of the just compensation fixed in the original judgment of condemnation the plaintiff in the action in said court shall be entitled to immediate possession of said lands, property and rights, or of said part or portion thereof.

10. **Finding set aside by supreme court. Writ of review. Extension of time.** The provisions of this act with reference to rehearing and review shall be applicable to the findings of the commission made and filed under the provisions of section forty-seven (*b*) of this act. Petitions for rehearing must be filed within twenty days from the date of making and filing the finding as to which a rehearing is desired. If a finding of the commission made and filed under the provisions of section forty-seven (*b*) of this act is set aside by the supreme court of the state of California, the matter shall be referred back to the commission for further action in the proceeding before the commission, and the commission shall have the right, in taking further action, to consider the entire testimony theretofore taken in the proceeding before the commission as well as such further testimony, if any, as may be presented in connection with such further action. Should a writ of review be obtained from the supreme court of the state of California, the time within which the political subdivision must file an action in a court of competent jurisdiction or submit said proposition to its voters shall be extended to not more than sixty days beyond the final decision of the supreme court upon said writ of review.

11. **Procedure not exclusive.** The procedure provided in section forty-seven (*b*) of this act shall be considered as alternative and cumulative and not exclusive and the political subdivision shall continue to have

the right to pursue any other procedure now or hereafter established providing for the acquisition under eminent domain proceedings of the lands, property and rights, or any part or portion thereof, of any public utility, and section forty-seven (*b*) of this act shall not be construed as repealing any law of this state providing for such eminent domain proceedings. Section forty-seven (*b*) of this act shall not affect pending actions or proceedings, but the same may be prosecuted and defended with the same effect as though section forty-seven (*b*) had not been amended. [Amendment approved May 5, 1917; Stats. 1917, p. 261.]

§ 50. **New construction only after commission's certificate.** (a) No railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation or water corporation shall henceforth begin the construction of a street railroad, or of a line, plant, or system, or of any extension of such street railroad, or line, plant, or system, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction; provided, that this section shall not be construed to require any such corporation to secure such certificate for an extension within any city and county, or city or town within which it shall have theretofore lawfully commenced operations, or for an extension into territory either within or without a city and county, or city or town, contiguous to its street railroad, or line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business; and provided, further, that if any public utility, in constructing or extending its line, plant, or system, shall interfere or be about to interfere with the operation of the line, plant, or system of any other public utility, already constructed, the commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable.

(b) **Exercise of rights under franchise only when necessity requires.** No public utility of a class specified in subsection (*a*) hereof shall henceforth exercise any right or privilege under any franchise or permit hereafter granted, or under any franchise or permit heretofore granted but not heretofore actually exercised, or the exercise of which has been suspended for more than one year, without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege; provided, that when the commission shall find, after hearing, that a public utility has heretofore begun actual construction work and is prosecuting such work, in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise or permit heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the commission may prescribe, to the completion of such work, and may, after such completion, exercise such right or privilege; and provided, further, that this section shall not be construed to validate any right

or privilege now invalid or hereafter becoming invalid under any law of this state.

(c) **Articles of incorporation must be filed. Certificate authorizing construction.** Before any certificate may issue, under this section, a certified copy of its articles of incorporation or charter, if the applicant be a corporation, shall be filed in the office of the commission. Every applicant for a certificate shall file in the office of the commission such evidence as shall be required by the commission to show that such applicant has received the required consent, franchise or permit of the proper county, city and county, municipal or other public authority. When a complaint has been filed with the commission alleging that a public utility of the class specified in subsection (*a*) of this section is engaged or is about to engage in construction work without having secured from the commission a certificate of public convenience and necessity as required by the provisions of this section, the commission shall have power, with or without notice, to make its order requiring the public utility complained of to cease and desist from such construction until the commission makes and files its decision on said complaint or until the further order of the commission. The commission shall have power, after hearing, to issue said certificate, as prayed for, or to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated street railroad, line, plant or system, or extension thereof, or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by said certificate such terms and conditions, including provisions for the acquisition by the public of such franchise or permit and all rights acquired thereunder and all works constructed or maintained by authority thereof, as in its judgment the public convenience and necessity may require. If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the commission for an order preliminary to the issue of the certificate. The commission may thereupon make an order declaring that it will thereafter, upon application, under such rules and regulations as it may prescribe, issue the desired certificate, upon such terms and conditions as it may designate, after the public utility has obtained the contemplated franchise or permit. Upon the presentation to the commission of evidence satisfactory to it that such franchise or permit has been secured by such public utility, the commission shall thereupon issue such certificate.

(d) **State's reserved power over utilities.** The legislature hereby declares that the provisions of this section are being enacted under the state's reserved power over public utilities or corporations, or both, as the case may be, for the purpose of acting on the right of the grantee of a public utility franchise granted by a county, city and county or incorporated city or town, to exercise right thereunder, and not for the purpose of acting on the right of any city and county or incorporated city or town to grant any such franchise. The legislature hereby declares that the provisions of this section shall be and remain in full force and effect concurrently with the right of any city and county or incorporated city or town to grant franchises for public utilities

upon the terms and conditions and in the manner prescribed by law. [Amendment approved April 20, 1917; Stats. 1917, p. 168.]

§ 70. Hearing on value of property. Notice. Filing of findings of fact. Hearings for making revaluations. For the purpose of ascertaining the matters and things specified in section forty-seven (*a*) of this act concerning the value of the property of public utilities, the commission may cause a hearing or hearings to be held at such time or times and place or places as the commission may designate. Before any hearing is had, the commission shall give the public utility affected thereby at least thirty days' written notice, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section and in said section forty-seven (*a*) of this act, but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to. All public utilities affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The evidence introduced at such hearing shall be reduced to writing and certified under the seal of the commission. The commission may make and file its findings of fact in writing upon such matters concerning which evidence shall have been introduced before it as, in its judgment, have bearing on the value of the property of the public utility affected. Such findings shall be subject to review by the supreme court of this state in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed, when properly certified under the seal of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court, in which the commission, the state or any officer, department or institution thereof, or any county, city and county, municipality or other body politic and the public utility affected may be interested whether arising under the provisions of this act or otherwise, and such findings, when so introduced, shall be conclusive evidence of the facts therein stated as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. The commission may, from time to time, cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any additions, betterments, extensions and new construction made by any public utility subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and be conducted in the same manner and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings; provided, that such findings made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings, except in so far as such supplemental findings shall change or modify the findings made at the original hearing or investigation. [Amendment approved May 5, 1917; Stats. 1917, p. 269.]

TITLE 445.
RAILROADS.

ACT 2936e.

An act to provide for the equipment of steam locomotives with automatic bell-ringing devices.

[Approved June 1, 1917. Stats. 1917, p. 1645.]

§ 1. **Automatic bell-ringing devices on locomotives.** Every railroad corporation, or receiver or lessee thereof, operating any line of railroad in this state by steam locomotives, shall within one year after the passage of this act or within such additional time as may be prescribed by order of the railroad commission of California after such railroad or receiver or lessee thereof has made a proper showing of its inability to comply therewith, equip all steam locomotives used or to be used in the hauling or propelling of trains over said railroad with a bell-ringer apparatus or device which apparatus or device when set in operation will ring and continue to ring the locomotive bell automatically, such apparatus or device being so constructed that it may be set in operation from either or both sides of the locomotive cab.

§ 2. **Penalty.** Any railroad company, receiver or lessee thereof, operating any line of railroad within this state by steam locomotives, violating the provisions of this act shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each offense.

TITLE 448.
RECLAMATION DISTRICTS.

ACT 2956d.

An act defining henceforth the exterior boundaries of Reclamation District No. 108, situate partly in the counties of Colusa and Yolo, and providing for the liquidation of the affairs of Reclamation District No. 108, as it now exists, its exterior boundaries being described in that certain act of the legislature, approved May 18, 1915 and approving the acts and proceedings of the said district, as defined in the said act of May 18, 1915, and the board of trustees thereof, and providing for the continuation in office of the present trustees of said district, and for the election and qualification of their successors, and providing that in the management and control of the affairs of said Reclamation District No. 108, as defined in this act, that it is subject to the provisions of the Political Code of the state of California, and to all other laws of the state, except as provided in the said act, in connection with the issuance and payment of warrants and the payment of assessments, providing that all moneys of the said district shall be paid and deposited with the county treasurer of Colusa county, and conferring jurisdiction upon the board of supervisors of the county of Colusa as to all matters concerning said district, and providing also for the management and control and administration of the affairs of said district. [Approved May 26, 1917. Stats. 1917, p. 1219. In effect July 27, 1917.]

The nature of the act appears from the title.

ACT 2966e.

An act to create a reclamation district to be called Reclamation District No. 1001, and providing for the management and control thereof, and dissolving certain levee districts, swamp-land, districts and reclamation districts within the boundaries of said Reclamation District No. 1001, and providing for the liquidation and winding up of said dissolved districts.

[Approved April 8, 1911. Stats. 1911, p. 831.]

Amended 1917; Stats. 1917, p. 969.

The amendment of 1917 follows:

§ 2. **Management vested in trustees. Funds. Rights and powers. What laws apply.** The management and control of the said district is hereby made subject to the provisions of the Political Code of the state of California, and other laws of the state, relative to reclamation districts formed under the provisions of the said Political Code, or such as may be hereafter enacted, and is hereby vested in three trustees, who shall be elected in the manner prescribed by law, and who shall have and exercise all the powers and duties conferred or imposed upon trustees of reclamation districts by law; provided, however, that the trustees now in office shall continue to hold office for the remainder of the terms for which they were respectively elected. In case of any vacancy in the office of trustee of the said district, the board of supervisors of the said county of Sutter shall appoint a qualified person as trustee, who shall hold the said office for the unexpired term. The office of the said district shall be in Nicolaus, county of Sutter. The board of supervisors of the county of Sutter shall have jurisdiction of all matters concerning said district. All funds of the said district shall be deposited in the county treasury of the said county of Sutter, and shall be disbursed by the treasurer of the said county of Sutter in payment of the warrants of the said district. The said district shall have power to make by-laws in conformity with the provisions of law, and shall have all the rights and powers which are now or may hereafter be conferred by the provisions of the Political Code, or by other laws of the state, upon reclamation or swamp-land districts, and shall also have the right and power of purchasing real and personal property and rights of way, within the boundaries of said district, or outside thereof, that may be necessary or desirable to carry out the purposes of the said district, or to acquire the same by condemnation proceedings, in the manner provided by law, and shall have the right and power to join in with other reclamation districts, levee districts, or swamp land districts, or other persons, in the construction and maintenance of levee and reclamation works, and to contract as to the same, and also to do all other acts and things that may be lawfully done by any reclamation district. All laws and parts of laws, now existing, or that may hereafter be enacted, relative to the qualification of electors for trustees, election of trustees, levy and collection of assessments, disbursements of funds, and the management and control of reclamation districts, and in and to all other matters pertaining to the management, control, or administration of reclamation districts are, so far as the same may be applicable,

made a part of this act, and shall be deemed to be incorporated herein. [Amendment approved May 26, 1917; Stats. 1917, p. 969.]

ACT 2966m.

An act to create a reclamation district to be called "Reclamation District Number Two Thousand Twenty," and providing for the control and management thereof, and repealing all acts and parts of acts inconsistent with this act.

[Approved May 26, 1917. Stats. 1917, p. 956. In effect July 27, 1917.]

§ 1. **Reclamation District No. 2020 created.** A reclamation district is hereby created to be called Reclamation District Number Two Thousand Twenty and the boundaries of such reclamation district shall be as follows:

Commencing at the southwest corner of section thirty-six, township five north, range seven east, Mount Diablo base and meridian, in the county of San Joaquin, state of California, thence east one-half mile to south quarter corner of said section thirty-six, thence north one-quarter mile, thence east one-quarter mile, thence north three-quarters of a mile, thence east one-quarter of a mile to the southeast corner of section twenty-five, township five north, range seven east, Mount Diablo base and meridian, thence north one-half of a mile to the quarter section corner between section twenty-five, township five north, range seven east, Mount Diablo base and meridian, and section thirty, township five north, range eight east, Mount Diablo base and meridian, thence east along quarter section line seven hundred fifty feet, thence north parallel with the range line between ranges seven and eight east, Mount Diablo base and meridian, one thousand four hundred thirty-five feet, thence west parallel with said quarter section line seven hundred fifty feet to said range line between said ranges seven and eight, thence north along said range line to the boundary line between Sacramento and San Joaquin counties, thence westerly along said boundary line between said Sacramento and San Joaquin counties to the section line between sections twenty-six and twenty-seven, township five north, range seven east, Mount Diablo base and meridian, thence south along section line to a point one-quarter mile north of the southeast corner of section thirty-five, township five north, range seven east, Mount Diablo base and meridian, thence east one-half mile to quarter section line running north and south through center of said section thirty-five, thence south one-quarter mile to south quarter corner of said section thirty-five, thence east one-half mile along section line to point of beginning containing one thousand seven hundred twenty-eight and two-tenths acres.

§ 2. **Management and control.** The management and control of said reclamation district is hereby made subject to the provisions of the Political Code of the state of California and other laws of this state relative to reclamation districts formed under the provisions of said Political Code.

§ 3. **Repealed.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

ACT 2981b.

An act creating a reclamation district to be called and known as "Reclamation District No. 1500"; providing for the management and control thereof and dissolving all levee districts, swamp-land districts, and reclamation districts, lying wholly within the boundaries of said Reclamation District No. 1500, providing for the liquidation and winding up of said dissolved districts, and excluding from any levee district, swamp-land district and reclamation district any land lying within the boundaries of said Reclamation District No. 1500.

[Approved April 30, 1913. Stats. 1913, p. 130.]

Amended 1915, p. 1027; 1917, p. 966.

The amendment of 1917 follows:

§ 2. Management vested in trustees. Elections. Term of office. Funds. Rights and powers. The management and control of said Reclamation District No. 1500 is hereby made subject to the provisions of article one of chapter one of title eight of part three of the Political Code of the state of California, relating to swamp and overflowed lands and reclamation districts, or any amendments or additions thereto, except as otherwise provided in this act, and the management and control of said Reclamation District No. 1500 shall be vested in five trustees, who shall hold office until their successors are elected or appointed and qualified. F. W. Kiesel, Edward H. Gerber, Charles F. Silva, P. J. Hiatt and Frank G Snook are hereby appointed trustees for the said reclamation district to act until their successors are elected or appointed and qualified. An election of five trustees shall be held in said district on the third Tuesday in October, one thousand nine hundred twenty-one, and on the third Tuesday in October every four years thereafter, and shall hold office until their successors are elected or appointed and qualified. In case of any vacancy in the office of trustee of said district the governor of this state shall appoint a qualified person as trustee, who shall hold said office until the next election. All the trustees, whether appointed by the governor of this state, or named herein, or elected as herein provided, shall hold office at the pleasure of the governor of this state. The office and principal place of business of said district shall be in the city of Sacramento and in such place as the board of trustees thereof may from time to time fix. The board of supervisors of the county of Sutter shall have jurisdiction of all matters concerning said district to the same extent as if the said district was formed under the provisions of said Political Code of the state of California, except as otherwise provided in this act. All funds of said district shall be deposited in the county treasury of said county of Sutter and shall be disbursed by the treasurer of said county in payment of the warrants of said district. Said district shall have the power to make by-laws in conformity with the provisions of law, and shall have all rights and powers, which are now, or may hereafter be, conferred by the provisions of the Political Code or by other laws of the state of California upon reclamation or swamp land districts, and shall also have the right and power of purchasing real and personal property and rights of way within the boundaries of said district, or outside thereof as may be necessary or desirable

to carry out the purposes of said district or to acquire the same by condemnation proceedings in the manner provided by law, and shall also have the right and power to join with other reclamation districts, levee districts or swamp-land districts or other persons in the construction and maintenance of levees and reclamation works, and to contract for the same, and also to do all other acts and things that may be incident to or necessary to the reclamation of the lands of said district, as the board of trustees thereof may determine. All of the provisions of the Political Code of the state of California, unless inconsistent with the provisions of this act, are made a part of this act, and shall be deemed to be incorporated herein. The said reclamation district hereby created shall have the power, in addition to the power hereby conferred, to do all other acts or things that any reclamation district or swamp-land district within the state of California has power to do under any existing law or any law hereafter enacted. The said district may at any time petition in writing by its board of trustees the reclamation board to change the line of location or construction of any levee in this act, or in the act of which this is amendatory, described, or any other levee, or to build any additional or supplemental levee or levees, and the reclamation board may, by an order, allow such petition in whole or in part, and allow such change or the building of any additional or supplemental levee. [Amendment approved May 26, 1917; Stats. 1917, p. 966.]

The amendatory act of 1917 contained the following provision:

§ 3. All acts and parts of acts in conflict with or inconsistent with the provisions of this act are hereby repealed.

ACT 2984.

An act to promote the reclamation of arid land and to provide that certain land belonging to the state of California, within the boundaries of an irrigation district shall be subject to the assessments levied in said district.

[Approved May 25, 1917. Stats. 1917, p. 936. In effect July 27, 1917.]

§ 1. **State lands within irrigation districts subject to assessment.** Whenever there shall be included in any irrigation district organized and existing under the laws of this state, public lands belonging to the state subject to entry, or which have been entered, and for which no certificates of purchase have been issued, such lands are hereby made and declared to be subject to all of the provisions of the law relating to the organization, government and regulation of irrigation districts to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to such law; provided, however, that nothing herein contained shall be construed as creating any obligation against the state of California to pay any of said charges, assessment or debt.

§ 2. **Notices served on surveyor-general.** All notices required by the act under which such district is organized shall, as soon as such notices are issued, be served upon the surveyor-general of the state of California by mailing to his office a copy thereof inclosed in a sealed envelope with postage prepaid.

§ 3. **Assessment lien.** No public lands which were unentered at the time any assessment was levied against the same by such irrigation district shall be sold for such assessment, but such assessment shall be and continue a lien upon such land, and no patent shall issue therefor until the applicant shall present a certificate from the proper district officer showing that no unpaid assessments or charges are due and delinquent against said land.

TITLE 473.

SAN DIEGO CITY.

ACT 3158a.

An act conveying certain tide-lands and lands lying under inland navigable waters situated in the bay of San Diego to the city of San Diego in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof.

[Approved May 1, 1911. Stats. 1911, p. 1357.]

Amended 1913, p. 78; 1915, p. 1323; 1917, p. 916.

The amendment of 1917 follows:

§ 5. **Restrictions on land leases.** The city of San Diego may lease lands granted and conveyed to it by this act under the following restrictions and conditions:

(a) **Term of fifty years. Rentals. Revaluation. Right to sublet. Improvement by lessee.** All that portion of the said lands lying on the shores of the bay of San Diego, between a prolongation into the bay of San Diego of the south line of Laurel street and the prolongation into the bay of San Diego of the northerly line of the United States military reservation on Point Loma, and also that portion of said lands lying between a prolongation into the bay of San Diego of the easterly line of Twenty-eighth street, and a prolongation into the bay of San Diego, of the boundary line between the city of San Diego and the city of National City, which shall not have been developed or improved by the city of San Diego at the date of such leasing may be leased by the said city in such areas as, in the judgment of the common council of the said city of San Diego, may seem proper, and for a term not to exceed fifty years; provided, however, that said city may have the right to renew such lease or leases for a further term not exceeding twenty-five years or to terminate the same on such terms, reservations and conditions as may be stipulated in such lease or leases. Every such lease shall provide for the payment of rentals to the city of San Diego, which said rentals shall be either an agreed per cent of the gross earnings derived from the leased lands, or shall be fixed upon a basis of the valuation of such lands. In the event that the rental is an agreed per cent of the gross earnings, the lease shall provide a method for ascertaining and determining from time to time during the term, such gross earnings. In the event that the rentals shall, by any such lease, be provided to be fixed upon the basis of the valuation of the leased lands, then in such event the lease shall provide a method for ascertaining at stated periods during the term, the reasonable value of the leased lands, and in all cases in which the rental is provided to be fixed upon

the basis of the valuation of the leased lands, then in such event the lease shall provide a method for ascertaining at stated periods during the term, the reasonable value of the leased lands, and in all cases in which the rental is provided to be fixed upon the basis of the value of the leased lands, the lease shall provide for the payment of a certain per cent of such value ascertained in the manner provided by the lease, and such per cent shall be the rental to be paid until a different valuation is fixed; provided, however, that there shall be no revaluation of any leased lands for the purpose of fixing the rentals oftener than once every ten years. Said leases shall also provide that at no time during their terms shall the said city of San Diego be required to make any improvements on or for the benefit of the leased lands. The lessees named in such leases shall have the right to sublet the said lands, or any part thereof, which subleases shall be subject to the same conditions and restrictions as the original and each lease executed by the city shall contain provisions to this effect. The said city of San Diego may grant wharf franchises for wharves adjoining and extending into the bay from the above-mentioned territory for terms, not to exceed in duration the terms of the leases on the adjacent lands, and the right to regulate and control the waters of the harbor adjacent to said leased land and to fix reasonable rates and tolls for the use of such wharves and docks abutting or adjoining such leased lands, shall be reserved to the city of San Diego and the state of California. Said lease or leases shall provide that a sum of money be expended upon the improvement of said lands by the said lessee or lessees within a reasonable time and said lease or leases shall contain provisions fixing the amount of money to be so expended and the time within which it shall be spent. The city may place such further restrictions or conditions in such leases and franchises when granted as do not conflict with the terms of this act and all grants of leases or franchises shall be authorized by ordinance.

(b) **Remainder for fifty years.** All the remaining portions of said lands may be leased for a term not to exceed fifty years, and no such lease shall be for a larger area than for forty acres, and such lease shall not be assignable or transferable nor shall any lessee have the right to sublet the leased premises or any part thereof without the consent of the common council by ordinance duly adopted; provided, however, that every lease so executed shall reserve to the common council and to the people of San Diego the right and privilege by ordinance duly adopted to terminate, change or modify such lease or leases on such terms, reservations and conditions as may be stipulated in such lease or leases.

(c) **Right of way reserved.** The city of San Diego shall reserve over the lands mentioned in subsections (a) and (b) a continuous right of way for a municipal belt line of railway tracks, which right of way shall be not less than one hundred feet in width and shall be so located as to practically parallel the United States bulkhead line, and no lease, franchise or privilege, shall be granted upon any of the lands mentioned in said subsections (a) and (b) that will in any way interfere with said right of way unless there be reserved in said lease, franchise

or privilege to the city a right of way for said railroad of not less than one hundred feet in width. [Amendment approved May 24, 1917; Stats. 1917, p. 916.]

ACT 3158c.

An act granting certain lands in the city of San Diego to San Diego Lodge No. 153, of the Independent Order of Odd Fellows of California; and ratifying and declaring valid a conveyance of said lands heretofore made by said city to said lodge.

[Approved May 24, 1917. Stats. 1917, p. 932. In effect July 27, 1917.]

§ 1. **Certain lands granted to San Diego Lodge No. 153, I. O. O. F.** There is hereby granted to San Diego Lodge No. 153, of the Independent Order of Odd Fellows, of California, and to its successors and assigns, all that certain tract of land situate and being in the city of San Diego, county of San Diego, state of California, and bounded and described as follows, viz.: Beginning at the southeastern corner of the cemetery lot as designated in the map of the city lands as drawn by James Pascoe bearing date May, A. D. 1870; thence westerly along the south boundary of said cemetery lot fifteen chains; thence due north seven and twenty-five hundredths chains; thence easterly, parallel with the south boundary of the tract, twelve and seventy-eight hundredths chains; thence along the eastern boundary of the pueblo of San Diego, as surveyed by J. C. Hayes, seven and fifty-nine hundredths chains to the point of beginning; comprising ten acres of land, together with all and singular the tenements and appurtenances thereunto in anywise appertaining; and being the same tract of land sold and conveyed to said lodge by a deed duly executed and delivered by said city of San Diego by and through its trustees on the twenty-ninth day of September, A. D. one thousand eight hundred seventy, and which deed was duly recorded in the office of the county recorder of said county of San Diego, in book number twelve of deeds, at page four hundred forty-seven, records of said county of San Diego, on the nineteenth day of May, A. D. one thousand eight hundred seventy-one, and which said deed and conveyance by said city of San Diego to said lodge is hereby ratified, confirmed and declared valid and effectual from the date thereof.

§ 2. **Right to sell, etc.** Said San Diego lodge shall have the free and exclusive use, control and management of said tract of land forever, and shall have the power to sell and convey lots or plots of land within said tract to purchasers, and all conveyances shall be made in the name of said lodge and shall be executed by the noble grand and the secretary of said lodge, with the seal thereof attached thereto; and every conveyance and transfer of lots or plots within said tract heretofore made by or on behalf of said lodge is hereby declared to be valid and effectual to transfer the title to the purchaser.

§ 3. **Repealed.** All acts and parts of acts inconsistent with or in conflict with the provisions of this act, so far as they apply or refer to the said tract of land herein granted, are hereby repealed.

TITLE 475.

SAN FRANCISCO.

ACT 3177.

Charter of San Francisco. [Stats. 1899, p. 241.]

Amended 1903, p. 583; 1907, pp. 10, 29; 1911, pp. 1469, 1661; 1913, pp. 1473, 1602; 1915, p. 1807; 1917, p. 1708.

ACT 3335.

Concerning waterfront of. [Stats. 1877–78, p. 263.]

Amended 1880, p. 10; 1889, p. 379; 1891, p. 233; 1895, p. 194; 1901, p. 627; 1905, p. 109; 1909, p. 434; 1917, p. 583. See Political Code, § 2524, as amended 1901, p. 619; also the case of People ex rel. State Harbor Commissioners v. Pacific Imp. Co., 130 Cal. 442.

The amendment of 1917 follows:

§ 6. Commissioners to have control of certain streets. May assign portions. May lease certain seawall lots. Term of lease. The said commissioners shall have the possession, jurisdiction, and control over the blocks and parts of blocks formed by the change of the waterfront and the extensions of the streets to the thoroughfare aforesaid, and remove any obstructions placed thereon in the same manner as provided for the removal of obstructions from the piers, wharves and thoroughfares. The commissioners are authorized to keep and maintain said blocks and parts of blocks as open spaces for the use of the public, or they may, in their discretion, inclose them. The commissioners are also authorized to assign the use of such portion thereof as they deem expedient for such purposes solely as will be most advantageous to the commerce of the port, and upon such terms and conditions as they may determine. All such assignments shall terminate at the pleasure of the commissioners.

The commissioners are also authorized to lease such portion or portions of seawall lots, numbered one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, "a," "b," and "c," as they may deem expedient for such purposes solely as will be most advantageous to the commerce of the port; provided, that before the execution of any lease, notice of the letting or leasing of any of the lots hereinbefore mentioned, or parts thereof, shall be given by publication in three of the daily papers published in the city of San Francisco for at least ten days; such notice shall state the lot or portion of lot to be leased, and that bids will be received by the commissioners at a place and time designated in such notice; and that said property shall be let to the highest and best bidder; provided, further, that all bids for lease of lots, or portions of lots, herein mentioned, shall set forth the purposes for which said lots, or the portions thereof, shall be used, and that the statement of such bid shall be embodied in the lease given by the board of state harbor commissioners with the condition that the lot shall be used for such purposes only; provided, further, that said board shall have the power to reject any and all bids; and provided, further, that in no event shall any such lease or leases be made for a term exceeding twenty-five years; provided,

however, that all leases made and executed within two years preceding February fifteenth, nineteen hundred and one, and on file in the office of the secretary of state, of any lands belonging to the state less than fifty acres in area, and which lease has been made to any corporation incorporated in this state, or to any person or persons, for terminal facilities, is hereby recognized, approved and ratified, and the conditions, covenants, and agreements of the parties thereto are made binding on the said parties, and on their successors and assigns, and on the state of California.

The amendatory act of 1917 also contained the following provision:

§ 2. **Repealed.** All acts and parts of acts in conflict herewith are hereby repealed.

ACT 3348b.

An act to carry into effect the provisions of subdivisions six and seven of section eight and one-half of article eleven of the constitution of the state of California; and also to provide for the alteration of the boundaries of and for the annexation of territory located in the county of San Mateo to the city and county of San Francisco, for the incorporation of such annexed territory in and as a part thereof, and for the government of such annexed territory as an integral part of such city and county of San Francisco.

[Approved April 24, 1917. Stats. 1917, p. 175. In effect, see section 31.]

§ 1. **City and county of San Francisco may annex territory in San Mateo county.** It shall be competent for the city and county of San Francisco a municipal corporation organized and incorporated under a freeholders' charter under and by virtue of the constitution and laws of the state of California, to annex territory contiguous to such consolidated city and county, unincoroprated or otherwise, situate wholly in the county of San Mateo, state of California, said annexed territory to be an integral part of such city and county.

§ 2. **Election in incorporated cities on proposal for annexation.** If additional territory, including more than one incorporated city or town, is proposed to be annexed to said city and county of San Francisco, the board of supervisors of said city and county will be empowered to give notice by a resolution of said board of supervisors, to the legislative bodies of any such incorporated cities or towns proposed to be so annexed of the said annexation proposal. Upon a petition requesting such notice to be so given, filed with said board of supervisors of said city and county and signed by not less than fifteen per centum of the qualified electors of said city and county, it shall be the duty of said board of supervisors of said city and county to thereupon by resolution of said board of supervisors, to give notice to the legislative bodies of such incorporated cities or towns proposed to be so annexed. Each of said last described legislative bodies of said incorporated cities or towns may, upon such notice, given by said board of supervisors of the city and county of San Francisco either by its own initiative or upon the initiative of such a petition so filed with said board of supervisors, and in any such incorporated city or town, upon a petition requesting such action

filed with such a legislative body thereof and signed by not less than fifteen per centum of the qualified electors of such incorporated city or town, proposed to be so annexed, must, thereupon cause notice to be given of an election to be held in such incorporated city, or town, proposed to be so annexed, at which shall be submitted to the qualified electors of such city, or town, a proposal for the annexation thereof to said city and county of San Francisco. Said notice shall be given by publication for at least five successive publications in a newspaper of general circulation printed and published in such incorporated city or town so proposed to be annexed, the last publication to be not less than twenty days prior to any such election. This notice shall include a particular description of any such incorporated cities or towns so proposed to be annexed by naming such incorporated cities or towns, together with a particular description of any debts to be assumed by the district as hereinafter set forth, unless such particular description is contained in the said election proposal so submitted. If there be no such newspaper so printed and published in any such incorporated city or town then such publication may be made in any newspaper of general circulation printed and published in the nearest incorporated city or town where such a newspaper may be so printed and published. The electors of said incorporated city or town shall be directed by such notice to vote upon such question in the manner hereinafter set forth. Such legislative body of said incorporated city or town proposed to be so annexed is hereby empowered and it shall be its duty to establish, and in such notice of election, to designate the voting precinct or precincts and the place or places at which the polls will be open for such election in such incorporated city or town so proposed to be annexed, which said place or places shall be that or those usually used as voting places within such incorporated city or town, if any such there be. The legislative body of said incorporated city or town proposed to be so annexed, is hereby empowered to, and it shall appoint the officers of such election, who shall be, for each voting place in such incorporated city or town, two judges and one inspector, each of whom shall be a qualified elector of the voting precinct in which he is appointed to act as an officer of such election.

§ 3. Question for forming district to vote on consolidation. Country ballots. Upon the ballots to be used at any such election there shall be printed the words "Shall (herein insert name of the city or town to be included in such annexed territory) be included in a district to be hereafter defined by the city and county of San Francisco which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with the city and county of San Francisco in a consolidated city and county government, and that such district shall become subject to taxation, along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city and county of San Francisco to wit: (herein insert in general terms, reference to any debt to be assumed and if none insert 'None'), 'Yes,'" and "Shall (herein insert name of the city or town, to be in-

cluded in such annexed territory) be included in a district to be hereafter defined by the city and county of San Francisco, which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with the city and county of San Francisco in a consolidated city and county government, and that such district shall become subject to taxation, along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city and county of San Francisco to wit: (herein insert in general terms reference to any debt to be assumed, and if none insert 'None'), 'No.'" There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (×) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal, and if an elector shall stamp a cross (×) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal. The judges and inspector of such election for each polling place shall immediately, upon the closing of the polls, count the ballots, make up, certify and seal the ballots and tally sheets of the ballots cast at their respective polling places, doing so as nearly as practicable, in the manner provided in the laws of this state relating to general elections, and they shall thereupon deliver the ballots, tally sheets and returns to and deposit the same with the clerk of the legislative body of such incorporated city or town proposed to be so annexed.

§ 4. **Canvass of returns. Returns sent to board of supervisors of San Francisco. Returns sent to secretary of state.** Such legislative body of said incorporated city or town proposed to be so annexed shall, at the time provided for its regular meeting next after the expiration of five days from and after the date of said election meet and proceed to canvass said returns, and said canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments until said canvass is completed. Immediately upon the completion of such canvass such canvassing body shall cause a record thereof to be made and entered upon its minutes stating the proposal submitted and showing the whole number of votes cast on the proposal submitted to such incorporated city or town, the number of votes cast therein in favor of the said proposal, and the number of votes cast therein against the said proposal. The clerk or other officer performing the duties of clerk of such canvassing body shall promptly, and within ten days of the completion of such canvass by said body make and certify under the seal thereof, and transmit to the board of supervisors of the city and county of San Francisco a copy of the records of the canvass of the returns of the election so canvassed by said canvassing body, together with a statement showing the date of such election, and the time and the result of the canvass of the returns of such election, and containing a description of such incorporated city or town, by naming the said incorporated city or town. And if it shall appear, from a canvass of the returns of the election held in the said incorporated city or town that a majority of the qualified electors voting on such pro-

posal voted in favor thereof the said clerk or other officer performing the duties of clerk of such body so canvassing such returns shall also, promptly, and within said ten days, make and certify, under the seal thereof, and transmit to the secretary of state of the state of California, a like copy of the record of the canvass of said returns, together with a like statement showing the date of such election, and the time and the result of the canvass of the returns of such election, and containing a description of such incorporated city or town, by naming said incorporated city or town. Said document shall be filed by the secretary of state immediately upon receipt thereof.

§ 5. **Limit to number of elections.** Nothing herein contained shall be construed as prohibiting a further election or further elections to be held in any such incorporated city or town to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall not have voted in favor thereof; provided, that there must be an interval of at least ninety days between said elections, and that not more than three such elections shall be held in any one incorporated city or town, upon any one initiation of an annexation proposal by the city and county of San Francisco; and further provided, that no annexation proposal shall be so initiated by the city and county of San Francisco, more than once in a period of two years.

§ 6. **District formed of incorporated and unincorporated territory. Size of district.** Any and all of the said incorporated cities or towns, to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall have voted in favor thereof together with such unincorporated territory as the board of supervisors of the said city and county of San Francisco may determine to have included, the whole to form an area contiguous to said city and county shall be by the board of supervisors of said city and county created into a district; provided, however, that with reference to any such district which may be first created following the adoption of this act, no such district shall in any event be created containing a population of less than nine thousand people or a total area of less than seventy-five square miles. The population as ascertained and established by the last preceding census taken under the authority of the congress of the United States, or the legislature of California, or of the board of supervisors of said county of San Mateo, or of any legislative body of any such incorporated city or town may be used as the basis for ascertaining such population. Also, if necessary, such population of the said district or any portion thereof, may be determined by the board of supervisors of said county of San Mateo; and as to any incorporated city or town in said district, such population may, if necessary, be determined by the legislative body of such incorporated city or town.

§ 7. **Question for consolidation.** Subsequent to said elections in said incorporated cities or towns, and within the two years above described, there shall be submitted by the board of supervisors of the county of San Mateo a proposal to the voters of said entire district, as one indivisible question, substantially in the following form: "Shall the territory

(herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county in San Francisco to wit: (herein insert in general terms, reference to any debts to be assumed, and if none, insert 'None'), 'Yes,'" and "Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county of San Francisco (herein insert in general terms, reference to any debts to be assumed, and if none, insert 'None'), 'No.'" There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (×) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal and if an elector shall stamp a cross (×) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal.

§ 8. **Manner of submitting question. Notice. Description of territory and debts.** The manner to be followed by the board of supervisors of said county of San Mateo in the submission of said question and the holding of such election, their establishment of election precincts and their appointment of election officers, and the publication of the notice of such election, shall be substantially the same as that set forth in section two of this act for the submission of an annexation proposal to any incorporated city or town, and the notice thereof shall be published in the incorporated city or town included in said district containing the largest population as ascertained and established by the last preceding census taken under the authority of the congress of the United States, or of the legislature of California; provided, that if there be no newspaper printed and published in said incorporated city or town, as provided for herein, then in the nearest incorporated city or town where such a newspaper is so printed and published. This notice shall include a particular description of any such incorporated city or town so proposed to be annexed, by naming such incorporated city or town together with a particular description of any debts to be assumed by such district, as in this act set forth, unless such particular description is contained in the said election proposal so submitted. In addition to such description such territory as may be made up of unincorporated territory, shall also be designated in such notice by some appropriate name or other words of identification, by which such territory may be referred to and indicated upon the ballots to be used at any election at which the question of annexation or consolidation of additional terrritory is submitted as herein provided. Any such unincorporated territory must in said

notice be specifically described by giving the boundaries thereof, unless such particular description is contained in the said election proposal so submitted.

§ 9. **Proposal for permitting territory to withdraw from San Mateo county.** At the same election so held in said district there must also be held throughout the county of San Mateo, and also under the supervision of the board of supervisors of said county of San Mateo, an election at which a proposition must be submitted to the electors of such county for the consent of such county to such annexation of said district to the city and county of San Francisco. The board of supervisors of said county of San Mateo shall submit a proposal to the voters of said entire county, substantially in the following form: "Shall the territory herein designate in general terms the territory to be annexed) be permitted to withdraw from the county of San Mateo and consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) 'Yes,'" and "Shall the territory (herein designate in general terms the territory to be annexed) be permitted to withdraw from the county of San Mateo and consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) 'No.'" There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (×) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal, and if an elector shall stamp a cross (×) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal.

§ 10. **Manner of submitting question. Notice. Description of territory.** The manner to be followed by the board of supervisors of the said county of San Mateo in the submission of said question and the holding of such election, their establishment of election precincts, and their appointment of election officers, and the publication of notice of such election shall be substantially the same as that set forth in sections two and eight of this act for the submission of an annexation proposal to any incorporated city or town, and to any district as provided for in this act, and the notice thereof shall be published in the incorporated city or town in said county containing the largest population as ascertained and established by the last preceding census taken under the authority of the congress of the United States or of the legislature of California. And if there be no such newspaper so published in said last described city, then in the nearest incorporated city or town where such a newspaper is so printed and published. This notice shall contain a description of the territory proposed to be annexed the same as provided for in section eight of this act for the notice to be given to the district referred to in said section eight. So far as possible, the notices to be published to the county of San Mateo and to the district proposed to be annexed to the city and county of San Francisco shall be consolidated in one notice. And further, so far as possible the election precincts and polling places

and election officers for both the county and the district election shall be identical.

§ 11. **Returns sent to supervisors of San Mateo county.** The judges and inspectors of such elections in said county of San Mateo and in said district so proposed to be annexed, for each polling place, shall immediately, upon the closing of the polls, count the ballots, make up, certify and seal the ballots and tally sheets of the ballots cast at their respective polling places, doing so as nearly as practicable in the manner provided in the laws of this state relating to general elections and they shall thereupon deliver the ballots, tally sheets and returns to and deposit the same with the clerk of the said board of supervisors of the county of San Mateo.

§ 12. **Canvass of returns. Returns sent to board of supervisors of San Francisco. Returns sent to secretary of state.** Such board of supervisors of the county of San Mateo shall at the time provided for its regular meeting next after the expiration of ten days from and after the date of said elections meet and proceed to canvass said returns, and said canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments until said canvass is completed. The said board of supervisors shall so canvass the returns of any such election held in the county to determine whether the county will permit the withdrawal therefrom of any territory, and likewise the returns of any such election held in any such district. Immediately upon the completion of such canvass such canvassing body shall cause a record thereof to be made and entered upon its minutes stating the proposals submitted and showing: first, the whole number of votes cast on the proposal submitted to the county of San Mateo, the number of votes cast therein in favor of such proposal and the number of votes cast therein against such proposal; and second, the whole number of votes cast on the proposal submitted to the district proposed to be annexed, the number of votes cast therein in favor of such proposal and the number of votes cast therein against such proposal. The clerk or other officer performing the duties of clerk of such canvassing body shall promptly, and within ten days of the completion of such canvass by said body, make and certify under the seal thereof, and transmit to the board of supervisors of the city and county of San Francisco a copy of the records of the canvass of the returns of the elections so canvassed by said canvassing body, together with a statement showing the date of such elections, and the time and the result of the canvass of the returns of such elections, and containing a description of such district so proposed to be annexed, by naming the incorporated cities or towns in said district and also the unincorporated territory in said district, as said incorporated cities or towns and unincorporated territory were described in the election notice as provided for in this act for the elections held in said district. And if it shall appear, from a canvass of the returns of the election held in the county of San Mateo or of the election held in the district so proposed to be annexed, that a majority of the qualified electors voting on such proposal voted in favor thereof, either in such county, or in such district proposed to be annexed, the said

clerk or other officer performing the duties of clerk of such body so canvassing such returns shall also, promptly, and within said ten days, make and certify, under the seal thereof, and transmit to the secretary of state of the state of California, a like copy of the record of the canvass of said returns, together with a like statement showing the date of such election, and the time and the result of the canvass of the returns of such election, and containing a like description of such district. Said document shall be filed by the secretary of state immediately upon receipt thereof.

§ 13. **Proposal submitted in city and county of San Francisco.** If it shall appear from a canvass of the returns of such elections that a majority of the qualified electors of such district, and also a majority of the qualified electors of such county of San Mateo voting on the question of such annexation are in favor of such annexation, the said proposal of annexation shall be, by the board of supervisors of said city and county of San Francisco submitted to the electors of said city and county. The said board of supervisors of the said city and county of San Francisco shall submit a proposal to the voters of the said city and county substantially in the following form: "Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city the county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of the property of said territory for the following indebtedness of said city and county of San Francisco, to wit: (herein insert in general terms, reference to any debts to be assumed, and if none, insert 'None')—'Yes,'" and "Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of the property of said territory for the following indebtedness of said city and county of San Francisco, (herein insert in general terms, reference to any debts to be assumed, and if none, insert 'None')—'No.'" There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (×) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal, and if an elector shall stamp a cross (×) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal.

§ 14. **Manner of submitting question. Description of territory and debts.** The manner to be followed by the board of supervisors of the said city and county of San Francisco in the submission of said question and the holding of said election, their establishment of election precincts, and their appointment of election officers, and the publication in said city and county of notice of such election shall be substantially the

same as that set forth in sections two and eight of this act for the submission of an annexation proposal to any incorporated city or town and to any district as provided for in this act. The notice required to be published shall include a particular description of any district so proposed to be annexed, together with a particular description of any debts to be assumed by such district, the same as provided for in section eight of this act for the notice to be given to the district referred to in said section eight. Said election in said city and county of San Francisco may, in the discretion of the board of supervisors thereof, be held at the same time as the elections held in said district and in said county of San Mateo.

§ 15. **Use of general election laws.** The ballots used in any elections provided for in this act, the opening and closing of the polls, and the holding and conducting of such elections, shall be in conformity, as nearly as may be, with the laws of this state concerning general elections, except as herein otherwise provided.

§ 16. **Annexation completed. Indebtedness assumed.** Upon the approval of any such annexation proposal by the electors of said city and county of San Francisco as shown by a canvass of the returns thereof, and the certification of said returns to the secretary of state, said certification being made in the same manner as provided in section twelve of this act, the secretary of state shall file the document certified to him by the clerk of the canvassing body of the city and county of San Francisco, in his office immediately upon the receipt thereof. The secretary of state having so filed said document in his office, then, from and after the date prescribed in the proposal so submitted at said elections, the annexation of such district so proposed to be annexed, as described therein, shall be deemed to be and shall be complete and thenceforth such annexed district shall be to all intents and purposes a part of such city and county of San Francisco. And from and after said date the indebtedness so referred to in said proposal shall be deemed to have been assumed and upon the said date stated in said annexation proposal such district and such city and county of San Francisco shall be and become one consolidated city and county to be governed by the charter of the city and county of San Francisco and any amendment or amendments thereto.

§ 17. **Submission of new charter or amendments. Borough government. Separate propositions. Controlling proposition.** In any such submission of any proposal to the electors of any incorporated city or town, or of any district proposed to be annexed to the city and county of San Francisco, or to the electors of said city and county of San Francisco, as provided for in this act, there may be included a condition that any such proposed annexation shall be effected only upon the ratification by the electors of said incorporated city or town, and of said district, and of said city and county of San Francisco, at the same election at which such annexation proposal is submitted to such electors of said incorporated city or town, or district, or city and county of San Francisco, of any proposed new charter for said city and county of San

Francisco, or of any proposed amendment or amendments to an existing charter of said city and county of San Francisco, which new charter or amendment or amendments to an existing charter may include provisions for borough government for all or any portion or portions of any territory proposed to be annexed; and also that such proposed annexation shall be effected only upon the final approval by the legislature of such new charter or such amendment or amendments to an existing charter of the city and county of San Francisco.

In submitting any such proposed new charter or such amendment or amendments to an existing charter, at the elections in the incorporated cities or towns, for the ratification of the electors of any of such cities or towns, separate propositions, whether alternative or conflicting, or one included within the other, may be submitted at the same time to be voted on by the electors separately in any one or more of such cities or towns. As between those so related, if more than one receive a majority of the votes of any such city or town, the proposition receiving the larger number of votes shall control as to all matters in conflict.

§ 18. **Vote on assumption of indebtedness.** No property in any territory annexed to said city and county of San Francisco as provided for in this act, shall be taxed for the payment of any indebtedness of such city and county outstanding at the date of such annexation and for the payment of which the property in such territory was not, prior to such annexation, subject to such taxation, unless there shall have been submitted to the qualified electors of such territory the proposition regarding the assumption of indebtedness, as provided for in this act, and the same shall have been approved by a majority of such electors voting thereon, as provided for in this act.

§ 19. **Description of debts.** The particular description of any debts to be assumed by any such annexed territory and which particular description shall be published, as in this act provided for, shall distinctly state that the property of such annexed territory shall, after such annexation, be subject to taxation as an integral part of the city and county formed under this act, along with the entire territory of the proposed city and county, in accordance with the assessable valuation of the property of said annexed territory and equally with property within such annexing city and county, to pay any bonded indebtedness of any such annexing city and county outstanding at the date of said annexation or any indebtedness theretofore authorized and to be represented by bonds of such annexing city and county thereafter to be issued, or any other indebtedness of said annexing city and county, which indebtedness it is proposed shall be so borne by the said property so annexed. The said notice shall, in addition, distinctly specify the improvement or improvements, or other purpose for which the indebtedness was so incurred or authorized and state the amount or amounts of such indebtedness already incurred outstanding at the date of the first publication of said notice and the amount or amounts of such indebtedness theretofore authorized and to be represented by bonds thereafter to be issued and the maximum rate of interest payable or to be payable on such indebtedness.

§ 20. Government of unannexed territory. Duty of legislature. In the event of any election as in this act provided for at which there shall be submitted a proposal for the annexation of any territory to the city and county of San Francisco, which annexation will result in the leaving of a portion or portions of the county of San Mateo unannexed to said city and county of San Francisco, then any notice of election or election ballot as provided for in this act shall state that the said annexation and consolidation shall not take effect until the legislature of the state shall have, according to law, provided for the government of any such portion or portions of any such county of San Mateo so remaining and not annexed to said city and county of San Francisco. It shall be the mandatory duty of the legislature, at the first session following any such final election, in the event of the approval of such annexation proposal at such election, or if the legislature be then in session then at such session, to so provide for the government of any such portion or portions of such county of San Mateo so remaining and not annexed to such city and county of San Francisco. Upon such provision being made by the legislature, and upon its finally becoming effective, and upon the said annexation otherwise becoming effective, then the said annexation to such city and county of San Francisco shall be deemed complete and in full force and effect.

§ 21. Legislature to determine proportion of debts and liabilities. Commission to advise legislature. Expenses charged to city and county of San Francisco. At the session of the legislature next after the final consummation of such annexation as herein provided for, or if the legislature is in session at the time of such final consummation then at such session of the legislature, the legislature shall determine the just proportion of the debts and liabilities of the county of San Mateo for which the city and county of San Francisco shall be liable, and the just proportion of the property and assets of such county of San Mateo to which such city and county of San Francisco shall be entitled, as existing at the time that any territory less than the whole of said San Mateo county is taken from such county of San Mateo as a result of any annexation as in this act provided for. The governor of the state shall appoint a commission of three persons; one, a qualified elector of the city and county of San Francisco; one, a qualified elector of the unannexed territory, and one, a qualified elector of some territory other than said annexing city and county and other than such unannexed territory, for the purpose of rendering a report to the legislature in order to advise the legislature; first, upon the proper provision for the government of any portion or portions of such unannexed territory; and, second, upon the proper determination of the just proportion of the debts and liabilities of the county of San Mateo for which such city and county shall be liable, and of the just proportion of the property and assets of such county of San Mateo to which such city and county shall be entitled, as so existing at the time that any territory is so taken from such county of San Mateo as a result of any such annexation as in this act provided. The actual necessary expenses of said commission, and compensation for their services at the rate of ten dollars per day for each day of actual

service by each of said commissioners, shall upon a demand therefor being sworn to and presented to the legislative body of the city and county of San Francisco be a proper and legal charge against the treasury of said city and county. The final annexation and incorporation of said additional territory as a part of said consolidated city and county shall be deemed completed upon following of the procedure hereinabove in this act set forth, and it shall not be deemed necessary to await the said action of the legislature with reference to the adjustment of debts and liabilities and property and assets in this section provided for prior to said consolidation being final and complete.

§ 22. **County, cities, and governmental agencies dissolved. Charters annulled. Offices surrendered. Superior court. Property, debt and liability.** Upon the completion of the annexation of any such territory to the city and county of San Francisco as provided for under the provisions of this act, the county of San Mateo, if the whole of said county be annexed, and each and every incorporated city or town, or governmental agency of any character, so annexed, shall ipso facto be deemed to be and shall be dissolved and disincorporated, and any freeholders' charter thereof shall be deemed to be and shall be surrendered and annulled and such county of San Mateo and any such incorporated cities or towns or governmental agencies, shall be deemed to be and shall be merged in said city and county of San Francisco and shall be thereafter governed in the name of and under the freeholders' charter of and as a part of such city and county of San Francisco or under any amendment or amendments to such charter. Upon the final completion of any annexation as provided for in this act all persons then occupying or possessing the several offices of or under the government of such county of San Mateo or of such incorporated cities or towns, or such governmental agencies, or unincorporated territory so annexed, shall immediately quit and surrender the occupancy or possession of said offices, which shall thereupon cease and terminate and they shall severally forthwith deliver all moneys, funds, books, papers, archives and records in their custody and all other property of such county, incorporated city or town, governmental agency, or unincorporated territory in their hands or under their control, to the proper officers of the city and county of San Francisco; provided, however, that if any portion of said county of San Mateo shall be left unannexed to said city and county of San Francisco that the disposition of such moneys, funds, books, papers, archives and records so in the custody of such officers of said county of San Mateo, or of unincorporated territory so annexed, shall be determined by the legislature in its final action on the government of such unannexed territory as in this act provided for. Any regularly constituted superior court of this state existing at the time of such annexation, within such county of San Mateo or within such incorporated city or town, or unincorporated territory, so annexed, shall upon the consolidation of said territory as a part of said city and county of San Francisco under the terms of this act, become a regularly constituted superior court of the state in and for said city and county of San Francisco, and any person or persons so occupying the position of superior judge in

any such annexed territory shall continue to occupy said position, as judge or judges of the superior court of the state in and for said city and county of San Francisco to the end of the term of office for which he or they may have been elected or appointed, with the same salary as theretofore attached to said position, and thereafter such position shall continue to be filled as provided by law, and at the same salary as fixed by law for the judges of the superior court in and for said city and county of San Francisco.

Upon completion of any annexation, as provided for in this act, of the county of San Mateo or of any incorporated city or town, or of any unincorporated territory, or governmental agency, the property, debts and liabilities of every description of said county, or incorporated city or town, or of any unincorporated territory, or governmental agency, shall be and become the property, debts and liabilities of such newly consolidated city and county of San Francisco.

§ 23. **Debts, etc., in San Mateo county, cities, etc., not affected. Ordinances repealed. Pending cases transferred. Street proceedings continued.** Any annexation provided for under the provisions of this act shall not affect any debts, demands, liabilities or obligations of any kind existing in favor of or against such county of San Mateo or such incorporated cities or towns, or such governmental agencies, so annexed, at the time of such annexation, or any action or proceeding then pending in any court in which any such debt, demand, liability or obligation of any kind may be involved, or any action or proceeding brought by or against such county, incorporated cities or towns or such governmental agencies, prior to such annexation, but all of such actions and proceedings shall be continued and concluded to final judgment or otherwise in all respects the same as if such annexation had not been effected; provided, however, that any such debt, demand, liability or obligation, in favor of or against such county, incorporated cities or towns, or such governmental agencies, so annexed shall, upon such annexation, be and become such a debt, demand, liability or obligation in favor of or against such newly consolidated city and county of San Francisco. All ordinances or resolutions of such county of San Mateo or of any such incorporated cities or towns, or such governmental agencies, so annexed under the provisions of this act, shall immediately upon such annexation becoming effective, be deemed to be repealed and of no further force and effect; provided, however, that such repeal shall not operate to discharge any person from any liability, civil or criminal, then existing, nor affect any prosecution then pending for any violation of any such ordinances, or resolutions, and all cases then pending in any justice's court, police court or court of any recorder or other judicial municipal magistrate or officer of such county, incorporated cities or towns, or such governmental agencies, so annexed shall, upon such annexation becoming effective, ipso facto, be deemed to be and be transferred to the justices' court, police court or other judicial municipal magistrate or officer of such city and county of San Francisco which has jurisdiction of proceedings or misdemeanors or of other actions civil or criminal of the character so transferred; provided, further, that such repeal shall not apply to ordinances or resolutions, under which vested rights have accrued or to ordinances

or resolutions relating to proceedings for street or other public improvements, or to proceedings for improving, opening, extending, widening or straightening of streets or other public places, or to proceedings for changing the grade thereof, all of which proceedings shall be continued and conducted by and under the authority of the newly consolidated city and county of San Francisco with the same force and effect as if continued and conducted by and under the authority of the county of San Mateo or of any incorporated city or town by which they were commenced, and all ordinances and resolutions of said city and county of San Francisco shall, upon the completion of such annexation, ipso facto, have full force and effect in and throughout the said annexed territory.

§ 24. **Taxes levied but not collected property of San Francisco. Condition.** In the event that a tax for county purposes has been levied by the board of supervisors of the county of San Mateo or has been so levied for the purposes of any political subdivision, either by such board of supervisors or by any legislative body of any incorporated city or town, or other governmental agency, against property situated in territory which, subsequent to such levy, is annexed to said city and county of San Francisco under the provisions of this act, but which at the time of such annexation has not been collected, then all such taxes so uncollected shall be and become the property of the city and county of San Francisco; provided, however, that any such taxes which have been levied against the property of any district, for the purposes of such district, must be expended for the benefit of any territory so annexed and included in such a district, in accordance with the purposes of the levy of said tax. This section shall also apply to all such taxes not paid into the county treasury or any treasury of any incorporated city or town, or other political subdivision or governmental agency, prior to the taking effect of this act.

§ 25. **Districts unchanged.** Nothing in this act shall alter or affect the boundaries of any senatorial or assembly district, or of any congressional district.

§ 26. **Expenses paid by city and county of San Francisco.** All proper expenses of proceedings for annexation of territory to the city and county of San Francisco under this act shall, in the first instance, be paid by such city and county; provided, that if such annexation be not finally completed, then the expenses for such election incurred in any city or town or district which shall have voted in favor of said annexation, or in the county of San Mateo if said county shall have so voted, shall be returned to the said city and county of San Francisco by such city, town, or county holding such election.

§ 27. **Duties performed by other than prescribed officials.** With reference to any duties prescribed in this act to be performed by the legislative body or any other board, officer or department of the county of San Mateo or any incorporated city or town so proposed to be annexed under the terms of this act, or of said city and county of San Francisco, if the charter of any such incorporated city or town or of said city and county of San Francisco, or any law, imposes such duties upon any

other board, officer or department of said county of San Mateo or of said incorporated city or town or of said city and county of San Francisco, as, upon a board of election commissioners or registrar of voters of said county of San Mateo, or of such incorporated city or town, or of said city and county of San Francisco, then such duties shall be so performed by such other board, officer or department upon which such duties are so imposed.

§ 28. **Time for election.** Any election provided for in this act may be held at a special election or at any general election.

§ 29. **"Governmental agency" defined.** The term "governmental agency" as used in this act shall be construed to include school districts, lighting districts, sanitary districts, or any other districts organized or authorized by law, of a special or quasi-municipal character.

§ 30. **Constitutionality.** If any section of this act other than section thirty-one thereof, or if any subsection, sentence, clause or phrase other than in said section thirty-one contained, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. If, however, said section thirty-one, or any subsection, sentence, clause or phrase in said section thirty-one contained, is for any reason held to be unconstitutional or inoperative, then in that event the validity of all of the remaining portions of this act shall be deemed affected and invalidated thereby. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections other than said section thirty-one or any one or more subsections, sentences, clauses, or phrases other than in said section thirty-one contained, are declared unconstitutional. Furthermore, this legislature declares that it would not have passed this act, either in whole or in part, unless said section thirty-one was included and incorporated therein and made a part thereof, and it hereby further declares said section thirty-one, and every subsection, sentence, clause and phrase in said section thirty-one contained, to be a substantial and integral part of said act.

§ 31. **Approval of constitutional amendment necessary.** This act shall take effect upon, and only in event of, the ratification and approval by the people of the state of assembly constitutional amendment number two, being a resolution to propose to the people of the state of California to amend section eight and one-half of article eleven of the constitution of the state, relating to city charters and to provisions therein for municipal courts, submitted by the forty-second session of the legislature; and not otherwise.

§ 32. **Title.** This act may be designated and referred to as the "San Francisco-San Mateo Consolidation Act."

ACT 3348c.

An act to provide for the establishment of passenger transportation facilities upon The Embarcadero, in the city and county of San Francisco.

[Approved May 17, 1917. Stats. 1917, p. 585. In effect July 27, 1917.]

§ 1. **Harbor commissioners may maintain passenger service on state railroad.** The board of state harbor commissioners may when in its judgment the wants of commerce of the port of San Francisco requires, maintain passenger service upon the state railroad located upon The Embarcadero in the city and county of San Francisco; provided, that said board may make such further extensions of said service through, over, under and above lands within its jurisdiction, and through, over, under and above the waterfront as defined by section two thousand five hundred twenty-four of the Political Code, as said board may determine are demanded by public convenience and necessity; and provided, further, that if the establishment and maintenance of said passenger service upon such railroad shall, after careful investigation, be found by said board of state harbor commissioners to be impracticable, or not feasible, such board may establish or maintain such other passenger service or the means, facilities, or modern street improvement by which or over which such other passenger service can be operated and maintained by said board, or by other persons, firms, associations, or corporations thereunto authorized by said board.

§ 2. **Acquiring facilities for passenger traffic.** Said board of state harbor commissioners shall have power to acquire and furnish such facilities as are reasonable and necessary for the accommodation of passenger traffic upon said Embarcadero.

§ 3. **Charges.** Charges for carriage by said passenger service shall be made, fixed or determined by the state board of harbor commissioners; provided, however, that such charges shall not be greater than shall be necessary for the obtaining of sufficient revenue which, in connection with the other revenues of the port of San Francisco, shall be necessary for the maintenance of the commerce of the port including the maintenance of said passenger service.

§ 4. **Added powers.** The state board of harbor commissioners may obtain such added powers under existing licenses, grounds, permits or easements, or such future licenses, grounds, permits or easements, as may be necessary to secure the fulfillment of the object of this act.

ACT 3348d.

An act to authorize the board of state harbor commissioners to acquire by purchase, condemnation, gift, grant or cession, certain property in the city and county of San Francisco, including Mission Rock, and extending the jurisdiction of said board over the same, and providing for the payment for the same.

[Approved May 17, 1917. Stats. 1917, p. 625. In effect July 27, 1917.]

§ 1. **Board of state harbor commissioners authorized to acquire certain property.** For the purpose of acquiring additional area for the construc-

tion of docks, wharves, slips and piers and increasing the harbor facilities on the waterfront of the city and county of San Francisco, the board of state harbor commissioners is hereby authorized and empowered to acquire, when in its discretion it is deemed for the best interests of the harbor, by purchase, condemnation, gift, grant or cession, for and on behalf of the state of California, all that certain tract or parcel of land situated in the city and county of San Francisco, state of California, and particularly described as follows, to wit: Commencing at a point in the bay of San Francisco, distant three thousand five hundred seventy feet southeasterly from the southerly corner of Brannan and Second streets, as the same are laid down on the official map of said city, said distance being measured along the extension southeasterly of the southwesterly line of Second street; thence in a southwesterly direction, at right angles with said line of Second street extended, five hundred feet; thence at right angles southeasterly eight hundred feet; thence at right angles northeasterly eight hundred feet; thence at right angles northwesterly eight hundred feet; and thence at right angles southwesterly three hundred feet, to the point of commencement; said tract of land being a square, including the rock known as Mission Rock, together with the wharves and other improvements thereupon and the appurtenances thereunto belonging.

§ 2. **Jurisdiction extended.** The jurisdiction of said board shall be and it is hereby extended so as to include all of the land described in section one of this act.

§ 3. **How acquired.** The portion of said tract that is held in private ownership may be separately acquired by said board, and the portions that are owned by the United States of America may be separately acquired by said board, and said board is hereby authorized to accept from the United States a cession or gift or grant of said last-named portions, if the same can be obtained, or to acquire the same by purchase or condemnation, in its discretion.

§ 4. **Action for condemnation.** The board of state harbor commissioners may institute any action or actions that may be necessary, and prosecute the same to final judgment, for the condemnation of any portion, or portions, of the said tract of land, and the purposes herein mentioned are hereby declared to be a public use, in behalf of which the right of eminent domain may be exercised by the board of state harbor commissioners for and in the name of the people of the state of California, for the estates and rights specified in, and in the manner provided in part three, title seven of the Code of Civil Procedure of the state of California.

§ 5. **Price payable from what funds.** The board of state harbor commissioners is hereby authorized to pay the purchase price thereof, or any judgment rendered in pursuance hereof in such condemnation proceedings, by drafts drawn upon the controller of the state, who shall draw his warrant or warrants therefor on the state treasurer, payable out of any money in the state treasury to the credit of the "San Fran-

cisco harbor improvement fund" or of the "Third San Francisco seawall fund," or partly from one and partly from the other of said funds, in the discretion of said board of state harbor commissioners.

TITLE 483.

SAN LUIS OBISPO, TOWN OF.

ACT 3417.

Charter of. [Stats. 1911, p. 1699.]

Amended 1913; Stats. 1913, p. 1167; 1917, Stats. 1917, p. 1944.

TITLE 486.

SAN RAFAEL.

ACT 3446.

Charter of. [Stats. 1913, p. 1549.]

Amended 1917; Stats. 1917, pp. 1905, 1967.

TITLE 487.

SANTA BARBARA CITY.

ACT 3448.

Charter of. [Stats. 1917, p. 1824.]

TITLE 493.

SANTA MONICA.

ACT 3527.

An act granting certain tide-lands and submerged lands of the state of California to the city of Santa Monica upon certain trusts and conditions.

[Approved April 10, 1917. Stats. 1917, p. 90. In effect July 27, 1917.]

§ 1. **Tide-land granted to Santa Monica.** There is hereby granted to the city of Santa Monica, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to all the tide-lands and submerged lands, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit:

(a) **Purposes for which land may be used. Term of franchises and leases.** Said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said city, and said city, or its successors, shall not, at any time, grant, convey,

give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon, for a period not exceeding twenty-five years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof for a period not exceeding twenty-five years, for purposes consistent with the trusts upon which said lands are held by the state of California and with the requirements of commerce or navigation at said harbor;

(b) **Harbor improved without expense to state.** Said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California, shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California;

(c) **No discrimination in rates. Right to fish reserved to people.** In the management, conduct or operation of said harbor or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors. The absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose, is hereby reserved to the people of the state of California.

TITLE 494.

SANTA ROSA.

ACT 3528.

Charter of. [Stats. 1905, p. 867.]

Amended 1917; Stats. 1917, p. 1811.

TITLE 495.

SCHOOLS.

ACT 3535a.

An act to authorize and empower the board of trustees of the San Francisco state normal school to sell or exchange and convey the lands and buildings of said school; to acquire by purchase, gift, condemnation or otherwise a new site for said school and to erect thereon buildings suitable and appropriate therefor, or to remodel or reconstruct any building already erected on the site so purchased or acquired, and to purchase therefor necessary and appropriate furniture and equipment; to create a fund into which shall be paid the proceeds of the sale of the present school property and making an appropriation to carry out the purposes of this act.

[Approved January 11, 1916. Stats. Ex. Sess. 1916, p. 41.]

Amended 1917; Stats. 1917, p. 573.

The amendment of 1917 follows:

§ 3. **Disposition of moneys received.** Moneys received from the sale of said lands shall be paid into the general fund in the state treasury.

The board of trustees of the state normal school at San Francisco is hereby authorized and empowered to examine the lands heretofore and now occupied or owned by the Panama-Pacific International Exposition or any corporation or individual representing or acting for or in conjunction with said exposition, and to select therefrom a new and suitable site for said school and to acquire by purchase, gift, condemnation or otherwise for and on behalf of the state of California the necessary lands and structures; and the lands so selected and purchased shall be and remain the site of the state normal school at San Francisco until otherwise provided by law. [Amendment approved May 17, 1917; Stats. 1917, p. 573.]

§ 6. **Improvement and buildings.** The said board is hereby authorized and empowered to improve the new site in a manner suitable for its intended uses, to erect and construct thereon new and modern normal school buildings and improvements necessary and proper for said normal school. The said board is also authorized and empowered to provide and purchase such furniture, fixtures, apparatus and other things as may be required for the proper equipment of said buildings and grounds for conducting said normal school.

§ 7. **San Francisco State Normal School-Exposition preservation fund.** A fund in the state treasury is hereby created and shall be known as "The San Francisco State Normal School-Exposition preservation fund." After the conveyance of said site to the state of California the state controller and the state treasurer shall transfer and make the proper entries upon their records, transferring the money paid into the San Francisco State Normal School-Exposition preservation fund and into the general fund under the provisions of an act entitled "An act to provide for the disposition of any money or other property accruing to or to be received by the state of California as its proportionate share of the returns from the holding of the Panama-Pacific international exposition," approved January 11, 1916, to the general fund in the state treasury and placed to the credit of the appropriation herein made from the general fund of the state treasury. The money so transferred shall be used for the purposes of this act. [Amendment approved May 17, 1917; Stats. 1917, p. 573.]

§ 8. **Appropriation. Condition.** Out of any money in the state treasury not otherwise appropriated, the sum of four hundred fifty thousand dollars, together with the sum of money herein ordered credited to this appropriation, is hereby appropriated to be expended in accordance with law for the purposes of this act; provided, that no part of the money appropriated herein from the general fund of the state treasury shall be used for the erection of buildings or the making of improvements until any existing structures on said site shall have been removed. Any moneys received from the sale of structures existing on said site at the time of its purchase shall be paid into the general fund of the state treasury and placed to the credit of the appropriation herein made. [New section added May 17, 1917; Stats. 1917, p. 573.]

ACT 3537d.

An act confirming and validating the organization of school districts.

[Approved April 24, 1917. Stats. 1917, p. 192.]

§ 1. Where the board of supervisors of any county have purported to establish a school district of any kind or class situated within such county and such district has acted as a school district for a period of one year previous to the taking effect of this act, all acts and proceedings taken for the purpose of creating such district are hereby legalized, validated and declared to be sufficient, and such school district is hereby declared to be duly incorporated and as such school district under its appropriate name shall have all the rights and privileges and be subject to all the duties and obligations of a duly incorporated school district.

ACT 3557a.

An act to authorize the board of trustees of the San Jose State Normal School to exchange certain land belonging to said school for other land belonging to the San Jose high school district.

[Approved May 5, 1917. Stats. 1917, p. 260. In effect July 27, 1917.]

§ 1. **Board of trustees of San Jose State Normal School may exchange land.** The board of trustees of the San Jose State Normal School is hereby authorized and empowered to exchange, with the written approval of the state board of control and of the governor, a certain parcel of land, the property of said normal school, commencing at a point on the original line of east San Fernando street easterly five hundred three feet from the intersection of the original westerly line of south Seventh street with the original southerly line of east San Fernando street; thence southerly at right angles two hundred ninety-six feet; thence easterly at right angles ten feet; thence northerly at right angles two hundred ninety-six feet; thence westerly at right angles ten feet to the place of beginning; for a parcel of land belonging to the San Jose high school district, commencing at a point westerly four hundred forty-three feet from and at right angles to the original line of south Seventh street and southerly three hundred fifty-six feet from the point of intersection of the original westerly line of south Seventh street with the original southerly line of east San Fernando street; thence northerly at right angles to said westerly line sixty feet; thence westerly at right angles fifty feet; thence southerly at right angles sixty feet; thence easterly at right angles fifty feet to the place of beginning.

ACT 3584c.

An act to validate bonds of school districts and high school districts and to provide for the levy and collection of taxes to pay the principal and interest on such bonds.

[Approved May 4, 1917. Stats. 1917, p. 228. In effect July 27, 1917.]

§ 1. **School district bonds validated.** Where in any school district of any kind or class, including union school districts and joint union school districts, or high school district of any kind or class, including union

high school districts and joint union high school districts, proceedings have been taken for the purpose of issuing and selling bonds of such district, for any purpose or purposes, all the acts and proceedings of the board of trustees, board of education or other governing body of such district and all the acts and proceedings of the board of supervisors of the county within which such district is situated, leading up to and including the issuance of such bonds if they have heretofore been sold, and all such acts and proceedings heretofore had although the bonds are not yet sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of supervisors of the county in which such district is situated, to issue such bonds, is hereby ratified, confirmed and declared, and the bonds heretofore sold are declared to be, and the bonds hereafter sold shall be, the legal and binding obligations of and against the district having heretofore issued, or hereafter issuing, such bonds, and the faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

§ 2. **Levy of taxes to pay interest and principal.** For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity, the assessors, treasurers, boards of supervisors, and other officers of the respective counties, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy, and collection of taxes, and custody of funds, for the payment of the principal and interest of bonds or school districts and high school districts of every kind or class, respectively.

§ 3. **Bonds excepted.** This act shall not operate to legalize any bonds which have been sold for less than par, nor to legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such district, voting at an election held for the purpose of determining whether such indebtedness should be incurred, nor to legalize any bonds which mature at a date more than forty years from the time of their issuance.

ACT 3586h.

An act to provide for the adoption of text-books for use in the public high schools of the state and for furnishing text-books for the use of pupils of such schools.

[Approved May 18, 1917. Stats. 1917, p. 729. In effect July 27, 1917.]

§ 1. **Text-books for use in high schools. Furnished free. Payment.** The high school board of each and every high school district shall adopt text-books for use in such district from a list prescribed by the state board of education. Such list shall include text-books in such high school subjects as in the judgment of the state board of education require the use of text-books; provided, that separate classics in English and modern languages need not be listed. The high school board of each and every high school district may purchase text-books for the use of pupils enrolled in the high schools of such district, which text-books shall at all times be and remain the property of such district, to be supplied to the

pupils thereof for use without charge, or at an annual rental, payable in advance, which shall not exceed three dollars for all text-books required by any pupil during any school year; provided, that after July 1, 1920, text-books shall be so supplied to pupils of the high schools without charge. Whenever a majority of the heads of families or a majority of the electors in any high school district shall petition in writing the high school board to furnish text-books free for the use of the pupils enrolled in such high school district, it shall thereafter be the duty of the high school board to furnish such text-books free for the use of such pupils. The high school board may pay for text-books furnished in accordance with the provisions of this act, out of the special fund of such high school district. All moneys collected for rental of text-books shall be deposited in the county treasury to the credit of such high school district within thirty days after collection.

§ 2. **Text-books furnished free to pupils outside district.** Whenever the high school board of any high school district purchases text-books for the use of pupils residing in portions of the county not included in any high school district and attending the high school of such district, and furnishes text-books free for the use of such pupils, the board may on or before August first of each year file with the county superintendent of schools of the county in which such pupils reside, a list of such pupils and an itemized statement of the amount expended for text-books for their use during the preceding school year. The county superintendent of schools shall include such amount in his estimate of the county high school fund required, and the board of supervisors shall include the amount in levying the county high school fund. Before the county superintendent of schools shall apportion any of the county high school fund on average daily attendance, he shall transfer from said fund to the fund of each of the several high school districts of the county, or draw a warrant in favor of the board of trustees of such high school district, for the amount claimed by each on account of text-books furnished free for the use of pupils residing in portions of the county not included in any high school district, and attending such high school.

§ 3. **Publisher's application for listing of books. Sworn statement.** All publishers desiring to offer school books for the use of pupils enrolled in the high schools of the state shall file with the state board of education at Sacramento a written application for the listing of such book or books accompanied by a fee of ten dollars for each book for which listing is applied, such sum to be deposited in the state treasury and used to defray the cost of reviewing and examining said book; also three copies of each book, together with a statement of the list price of said book as shown by the publisher's catalogue, a statement of all discounts allowed thereon when new copies of such book are purchased by or on behalf of a high school board directly from the publisher, and a statement of the lowest exchange price that will be given when old books in the same subject and of like kind and grade, but of a different series, are received in exchange; provided, that no fee shall be required to accompany the application for the listing of a book in a subject studied by less than one hundred pupils in the high schools of the state. They shall

also submit a sworn statement giving the lowest net wholesale price at which such book is sold anywhere in the United States and the maximum total discount allowed thereon to any public school board anywhere in the United States. Such sworn statements shall give the lowest exchange price given anywhere in the United States where old books in the same subject and of like kind and grade, but of a different series, are received in exchange. Such sworn statement shall also include a statement that said publisher is not directly or indirectly associated or connected with any combination in restraint of trade in text-books, and that he is not and will not become a party in any way to any understanding, agreement or combination to control prices or restrict competition in the sale of text-books for use in the state of California.

§ 4. **Bond of publisher. Price at which book furnished. Uniform price. Reduction of price. Quality not to control prices.** Each publisher offering one or more books for use in the high schools of the state must, after notification by the state board of education of its intention to place on the list any book or books submitted by him, and as a prerequisite for such listing, file with the state board of education a bond payable to the state of California in a sum to be determined by the state board of education, said sum for any publisher offering one or more books to be not less than one thousand dollars nor more than ten thousand dollars, the bond to be conditioned as follows: First, that the publisher will furnish said book or books offered by him and listed by the state board of education, to the high school board of any high school district in the state at the lowest net wholesale price contained in the statement filed at the time said book or books were offered, less the maximum total discount allowed thereon to any public school board according to such statement, and at the lowest exchange price given according to such statement, when old books in the same subject and of like kind and grade, but of a different series, are given in exchange, which price shall not exceed the lowest price the publisher has made for such book or books anywhere in the United States; provided, that the cost of transporting all text-books to the high school from the publisher's office or depositary in California shall be paid by the high school district, or prepaid by the publisher and then charged to the district, as the high school board may determine; second, that he will maintain said price uniformly throughout the state of California, on his book or books, listed under the provisions of this act; third, that the publisher will reduce such price automatically to purchasers within the state of California whenever reductions are made elsewhere in the United States, so that at no time shall any book so filed and listed be sold to school authorities in California at a higher net price than is received for such book elsewhere in the United States; and that upon failure or refusal of the publisher to make such reduction all contracts for such book or books shall become null and void; fourth, that all such books offered for sale, adoption, or exchange in the state of California shall be equal in quality to those filed in the office of the state board of education, as regards paper, binding, print, illustration, subject matter, and all other particulars that may affect the value of such school books; fifth, that the publisher will not in any way, directly or indirectly, become associated or connected with

any combination in restraint of trade in text-books, and that he will not enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of school books for use in the state of California; sixth, that the publisher will maintain an office in California or designate an agent or arrange with a depositary in California, to receive and handle orders for said book or books.

§ 5. **Approval. Term.** Such bond shall be approved by the attorney general, and shall continue in force for a period of eight years after its filing, at or before the expiration of which period a new bond shall be given, or the right to continue selling such text-books in the state of California shall be forfeited.

§ 6. **List sent to principals, county superintendents, and clerks. Annual publication.** The state board of education shall, within six months after the approval of such bond, send a list of such books to the principal of each high school, county superintendent of schools and the clerk of each high school board, with a statement of the list price, discounts and the exchange price of each; provided, that such lists shall not be issued oftener than twice each year; provided, further, that whenever a book is dropped from the list, such action shall not affect existing contracts for such book. The state board of education shall, on or before January 1, 1918, and on or before the first day of January of each following year, publish and send to the principal of each high school, county superintendent of schools and the clerk of each high school board, a printed copy of all such lists then in force.

§ 7. **Failure of publisher to furnish books. Forfeit.** If any publishers shall comply with the provisions of the foregoing sections and then fail or refuse to furnish such books to any high school board upon the terms herein provided within a reasonable time after an order therefor is filed, said board shall at once notify the state commissioner of secondary schools of such failure or refusal, and he shall at once cause an investigation of such charge to be made. If the state commissioner of secondary schools find such charge to be true, he shall at once report his finding to the state board of education, which shall notify such publisher and notify the principal of each high school and the clerk of each high school board in the state of California that such book or books shall not thereafter be adopted or purchased by any of the public school authorities in the state. Said publishers shall forfeit and pay to the state of California the sum of one hundred dollars for each failure or refusal to furnish said book or books, to be recovered in the name of the state of California in an action to be brought by the attorney general in any proper court, the amount when collected to be paid into the treasury to the credit of the high school fund of the state of California.

§ 8. **Adoption of text-books by school board. No change for period of four years.** The high school board of each high school district in the state of California, at a regular meeting to be held between the first Monday in February and the first Monday in August of each year, shall adopt text-books for use in the schools under its control, until a complete list of text-books covering the entire course of study has been

adopted. The books so adopted shall be put in actual use in such district not later than the beginning of the school year next following such adoption. A majority vote of the membership of any board shall determine which of said books prescribed by the state board of education shall be used in the schools under its control, and after such books have been selected and adopted by said board, no book shall be changed, nor any other book substituted therefor, except as otherwise provided in this act, for a period of four years after the date of its adoption, as shown by the official records of the board; provided, that any such school text-books as may be in use in the public schools of California when this act goes into effect may be continued until text-books are purchased and distributed by the high school board in accordance with the provisions of this act, but when said books are changed, or other books substituted, the books adopted shall be from the list prescribed by the state board of education in pursuance of this act and shall be used for a full period of four years.

§ 9. **Text-books purchased direct from publishers.** All text-books adopted as provided for in this act may be bought by the various school authorities direct from the publishers at the lowest net wholesale price less the maximum total discount thereon, as listed by the state board of education. The high school board of each and every high school district shall at a regular meeting, cause to be ascertained the number of each of such books adopted as the schools under its charge require. The clerk or secretary of each high school board may order the book so agreed upon direct from the publisher, agent, or depositary in California, who, on receipt of such order, shall ship the books as directed without delay. It shall be the duty of the clerk or secretary, or other person named by the board for such purpose, to examine the books when received, and if found to be correct and in accordance with the order, a warrant payable out of the county or district high school fund for the proper amount, shall be issued and remitted to the publisher within thirty days. It shall be the duty of each high school board to make all necessary provisions and arrangements to place the books so purchased within easy reach and accessible for the use of all the pupils in the schools under its control. All orders for books under this act shall be made by a duly authorized agent of the high school board and billed by the publisher or the depositary in California designated by him to the high school board.

§ 10. **No emolument to be given or accepted. Sample copies.** No publisher of school text-books, nor agent of such publisher, shall offer or give any emolument, money, or other valuable thing, or any inducement, to any member of any high school board or school official or teacher connected with any of the high schools of California, for his vote, or promise to vote, or for the use of his influence for the adoption of any school text-book to be used in any of the high schools of this state, nor shall any member of any high school board or school official connected with any of the public schools of California, accept emolument, money or other valuable thing, or any other inducement, from any publisher, or agent of any publisher, for his vote or promise to vote, or for the use of his influence for the adoption of any school text-books; provided, that noth-

ing in this section shall be construed to prevent any person, publisher, or publisher's agent from lending one sample copy of any school text-book to any member of a high school board or school official for examination of such books or books before the adoption of books, as provided for in this act, and nothing shall be construed to prevent such a member of a high school board or school official from receiving such sample copies; provided, that all copies of text-books so received shall be returned within thirty days after the adoption of text-books in the subject or subjects by the high school board.

§ 11. **Penalty.** Any publisher of school text-books, or agent of such publisher, or any member of any high school board or public school official in the state of California, who violates any of the provisions of this act, on conviction thereof, shall be punished as for a misdemeanor; and any member of a high school board or public school official shall, in addition, be removed from his official position.

ACT 3586i.

An act to provide for the organization and supervision of courses in physical education in the elementary, secondary and normal schools of the state, and appropriating ten thousand dollars therefor.

[Approved May 26, 1917. Stats. 1917, p. 1176. In effect July 27, 1917.]

§ 1. **Courses of physical education.** The board of education of each county, city and county, and city, whose duty it is to prescribe the course of study for the elementary schools of such county, city and county or city, shall prescribe suitable courses of physical education in accordance with the provisions of this act for all pupils enrolled in the day elementary schools, except pupils who may be excused from such training on account of physical disability; and the high school board of each high school district shall prescribe suitable courses of physical education in accordance with the provisions of this act for all pupils enrolled in the day high schools of such district, except pupils regularly enrolled in high school cadet companies and pupils who may be excused from such courses on account of physical disability.

§ 2. **Purposes of courses.** The aims and purposes of the courses of physical education established under the provisions of this act shall be as follows: (1) To develop organic vigor, provide neuromuscular training, promote bodily and mental poise, correct postural defects, secure the more advanced forms of co-ordination, strength and endurance, and to promote such desirable moral and social qualities as appreciation of the value of co-operation, self-subordination and obedience to authority, and higher ideals, courage and wholesome interest in truly recreational activities; (2) to promote a hygienic school and home life, secure scientific supervision of the sanitation of school buildings, playgrounds and athletic fields, and the equipment thereof.

§ 3. **Enforcement of courses.** It shall be the duty of the superintendent of schools of every county, city and county, or city, and of every

board of education, board of school trustees, or high school board, to enforce the courses of physical education prescribed by the proper authority, and to require that such physical education be given in the schools under their jurisdiction or control. All pupils enrolled in the elementary schools, except pupils excused therefrom in accordance with the provisions of this act, shall be required to attend upon such courses of physical education during periods which shall average twenty minutes in each school day, and all pupils enrolled in the secondary schools, except pupils excused therefrom in accordance with the provisions of this act, shall be required to attend upon such courses of physical education for at least two hours each week that school is in session.

§ 4. **Supervisor and special teachers.** When the number of pupils in any city or city and county or school district is sufficient, such city or city and county or school district shall employ a competent supervisor and such special teachers of physical education as may be necessary. The trustees of two or more contiguous elementary school districts, or the trustees of one or more elementary school districts and the high school board of the high school district in which such elementary school district or districts are situated, may by written agreement join in the employment of a competent teacher of physical education for such districts, and the salary of such teacher and the expenses incurred on account of such instruction shall be apportioned as the school board concerned may agree.

§ 5. **Courses in normal schools.** The state board of education, in standardizing the courses of instruction offered in the several normal schools of the state, shall prescribe a course in physical education and shall make the completion of such course a requirement for graduation.

§ 6. **Duty of state board of education.** It shall be the duty of the state board of education: (1) to adopt such rules and regulations as it may deem necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools in accordance with the provisions of this act; (2) to appoint a state supervisor of physical education whose duties are hereinafter defined; (3) to compile or cause to be compiled and printed, a manual in physical education for distribution to teachers in the public schools of the state.

§ 7. **State supervisor of physical education. Salary. Expenses.** The supervisor of physical education appointed under the provisions of this act, shall be experienced in the supervision of physical education in public schools. He shall not be subject to the provisions of any civil service law of the state. He shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; shall exercise general control over all athletic activities of the public schools; shall advise school officials, school boards and teachers in matters of physical education; shall visit and investigate the work in physical education in the public schools and shall perform such other duties as may be assigned to him by the state board of education. He shall receive a salary not exceeding three thousand six hundred dollars per annum, as fixed by the state board of education, payable at the same

time and in the same manner as the salaries of other state officers are payable. He shall also receive his actual and necessary traveling expenses while on official business. The state board of education may within the limits of the appropriation hereinafter provided, employ such expert and clerical assistance as may be necessary to carry out the provisions of this act.

§ 8. **Appropriation.** The sum of ten thousand dollars is hereby appropriated out of any moneys belonging to the state not otherwise appropriated to defray the expenses of the state board of education in carrying out the provisions of this act, during the sixty-ninth and seventieth fiscal years.

ACT 3586j.

An act relating to the employment of janitors and employees of certain school districts.

[Approved May 17, 1917. Stats. 1917, p. 645. In effect July 27, 1917.]

§ 1. **Employment of janitors and employees.** In any school district situated wholly within the boundaries of a city of the first class the janitors and other employees of such school district shall be employed in the same manner and under the same conditions as teachers are employed by such district and when so employed shall be removed only for cause and after charges have been filed and heard by the board of education. All such employees who have been in the service of any such school district continuously for a period of one year prior to the effective date of this act shall be deemed to have been so employed. The board of education shall have full power to make and enforce all necessary rules and regulations to carry out these provisions.

ACT 3586k.

An act empowering the state board of education to order the closing from time to time of educational institutions during the continuance of a state of war.

[Approved May 5, 1917. Stats. 1917, p. 282. In effect immediately.]

§ 1. **State board of education may close educational institutions. Salary of teacher.** During the continuance of a state of war between the United States of America and any foreign power, the state board of education, with the approval of the governor, shall have power, whenever in the opinion of a majority of its members such step is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the state, to make an order closing, for such time as may be specified therein, any or all educational institutions supported wholly or in part by the state, or any grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such educational institutions, or any grade or class thereof, during the continuance of a state of war; provided, however, that the annual school term shall not be reduced to less than six school months under the provisions of this act; and provided, further,

that whenever any such educational institution is closed, or the opening thereof is delayed, under the provisions of this act, the salary of any teacher regularly employed shall be paid according to any written contract between the governing board of such educational institution and such teacher, or in case there is no written contract, according to any salary schedule adopted by such board. In case there is neither such contract nor salary schedule, the total salary paid for any school year in which such order is made shall not be less than the salary paid by the governing board of such institution for similar service during the preceding school year. It is further provided that nothing herein contained shall in any manner affect the amount of money apportioned to any school district during any school year.

§ 2. **Application of order.** Such an order issued under the provisions of section one hereof may be made applicable to such district, city, city and county, county or group of any thereof as the state board of education may determine and specify therein, and may be altered, amended or rescinded from time to time.

§ 3. **Urgency measure.** Inasmuch as the United States is now involved in war, this act is hereby determined and declared to be an urgency measure necessary for the immediate preservation of the public peace and safety, within the meaning of section one of article four of the constitution and shall take effect immediately.

ACT 3586 l.

An act to accept the provisions and benefits of an act passed by the senate and house of representatives of the United States of America in congress assembled and approved February twenty-third, nineteen hundred seventeen, to provide for the promotion of vocational education; to create a vocational education fund and making an appropriation therefor.

[Approved May 31, 1917. Stats. 1917, p. 1387.]

§ 1. **Provisions of federal vocational education act accepted. Acceptance of benefits of federal vocational education act.** The people of the state of California do hereby accept the provisions of, and each and all of the funds provided by, an act passed by the senate and house of representatives of the United States of America in congress assembled, entitled, "An act to provide for the promotion of vocational education; to provide for co-operation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," and approved by the president February twenty-third, nineteen hundred seventeen. In accepting the benefits of said act the people of the state of California agree to comply with all of its provisions and to observe all of its requirements.

§ 2. **Powers of state board of education.** The state board of education is hereby designated as the state board to carry out the purposes and the provisions of said act, and is hereby given all necessary power

and authority to co-operate with the federal board for vocational education in the administration of the provisions of the federal act and of this act.

§ 3. **Duty of state treasurer. Vocational education fund.** The state treasurer, as required by said federal act, is hereby made custodian of all federal funds received by the state of California under the provisions of that act. He is also hereby made custodian of all state funds appropriated in this act for the purpose of co-operating with the federal government in the promotion of vocational education. He is hereby authorized to receive and provide for the proper custody of all moneys provided under the provisions of this act and the above-mentioned federal act. It shall be the duty of the state treasurer, upon receiving any apportionment of funds from the federal government on account of the vocational education fund, to report the same immediately, with the amount thereof, to the state controller and the state board of education and deposit the same to the credit of the "vocational education fund," which fund is hereby created. Thereupon the state controller and the state treasurer shall transfer from the general fund of the state to the vocational education fund an amount which shall equal the amount apportioned to the state of California under the provisions of the federal act mentioned in this act. The moneys so transferred into the vocational education fund are hereby appropriated without reference to fiscal years for the purpose of co-operating with the federal government in promoting vocational education in this state and are exempt from the provisions of part three, title one, chapter three, article eighteen, of the Political Code, relating to the state board of control. The moneys constituting the vocational education fund shall be paid out by the state treasurer on warrants drawn by the controller as requisitioned by the state board of education in carrying out the provisions of this act, the federal act and the rules and regulations of said state board established as required by said acts.

TITLE 500.

SHASTA COUNTY.

ACT 3608.

An act fixing the compensation of grand and trial jurors in counties of the twenty-eighth class.

[Approved May 28, 1917. Stats. 1917, p. 1025. In effect July 27, 1917.]

§ 1. **Fees of jurors, counties of twenty-eighth class.** Grand jurors or trial jurors in criminal cases in the superior court shall receive, as compensation for each day's attendance, per day three dollars, and for each mile actually traveled in attending court as a grand juror or juror at a criminal case, in the superior court in going only, per mile fifteen cents. The county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each juror, and the auditor shall draw his warrant for the amount to which each juror is entitled, and the treasurer shall pay the same.

TITLE 510.

SMELTERS.

ACT 3670.

An act providing for the investigation by the state veterinarian, the secretary of the state board of health and the state commissioner of horticulture of injury to animal life and vegetation in California, caused by smelter wastes, and making an appropriation therefor. [Approved June 16, 1913. Stats. 1913, p. 1147.]

Repealed 1917; Stats. 1917, p. 280.

TITLE 513.

SOLDIERS AND SAILORS.

ACT 3693.

To provide for the burial of ex-Union soldiers, sailors and marines dying without leaving sufficient means to defray burial expenses.

[Approved March 15, 1889. Stats. 1889, p. 198.]

Amended 1901, p. 596; 1911, p. 479; 1913, pp. 17, 330; 1917, p. 749. The amendment of 1917 follows:

§ 1. **Soldiers, sailors and marines may be buried at county expense.** It shall be the duty of the board of supervisors of each county in this state to designate a proper person in the county, who shall be an honorably discharged soldier, sailor or marine who shall have served in the army or navy of the United States, whose duty it shall be to cause to be decently interred the body of any honorably discharged soldier, sailor or marine who shall have served in the army or navy of the United States, or the widow of any such honorably discharged soldier, sailor or marine, who may hereafter die without having sufficient means to defray funeral expenses. Such burial shall not be made in any cemetery or burial ground, or any portion of such cemetery or burial ground, used exclusively for the burial of the pauper dead. The expenses of each burial shall not exceed the sum of seventy-five dollars. [Amendment approved May 19, 1917; Stats. 1917, p. 749.]

Another amendment of Section 1 of this act was passed at the same session of the legislature. It was in almost precisely the same terms as the above amendment. See Stats. 1917, p. 17.

§ 4. **Record of deceased soldiers. Headstones.** It shall be the duty of the clerk of the board of supervisors, upon receiving the report and statement of expenses provided for in this act, to transcribe in a book kept for that purpose, all the facts contained in such report respecting such deceased soldier, sailor, or marine, or the widow of such soldier, sailor or marine. It shall also be the duty of said clerk, upon the death and burial of any such soldier, sailor or marine, to make application to the proper authorities under the government of the United States, for a suitable headstone, as provided by act of congress and to cause the same to be placed at the head of such soldier, sailor or marine's grave, the expenses of which shall not exceed the sum of five dollars for cartage and properly setting each stone, and it shall be the duty of the board of

supervisors to perpetually maintain suitably and properly each grave of any such soldier, sailor or marine whether so marked by a headstone prior to the passage of this act or subsequent thereto. The expenses thus incurred shall be audited and paid as provided in section two of this act for burial expenses. [Amendment approved May 19, 1917; Stats. 1917, p. 749.]

ACT 3693a.

An act to provide for the care of the graves of soldiers, sailors and marines of the United States of America whose remains are buried in certain cemeteries.

[Approved May 11, 1917. Stats. 1917, p. 422. In effect July 27, 1917.]

§ 1. **Care of graves of soldiers, sailors and marines.** Wherever in any place of burial of human remains, which is now or which may hereafter be established or organized by or under the authority of the board of supervisors of a county, or city and county, of this state, or by or under the authority of the board of trustees, city council or other governing body of a municipality in this state, as a cemetery or place of burial of human remains, there is or shall be any known grave of a former soldier, sailor or marine of the United States of America (who was not dishonorably discharged from the service of said United States), it is hereby made the duty of the trustees or other officers who are or may be hereafter vested by law with the power to manage such cemetery or place of burial, to keep such grave properly marked and identified, and free from weeds and rubbish, and to keep in decent order and repair and free from defacement, injury and unlawful markings any tomb, monument, gravestone, wall or other appurtenance appertaining to such grave.

§ 2. **Tax levy.** It is hereby made the duty of such officers who are charged or who may hereafter be charged by law with the official power to raise money by taxation for maintaining any such cemetery or place of burial, to include in the tax levy for such purposes sufficient to raise the amount necessary to comply with the requirements of this act.

TITLE 526.

STATE.

ACT 3796a.

An act authorizing suits against the state concerning certain real property and regulating procedure therein.

[Approved May 14, 1917. Stats. 1917, p. 435. In effect July 27, 1917.]

§ 1. **Suits against state to quiet title authorized.** In all cases where the state of California has apparently acquired some right, title or interest, or the right to acquire some title or interest in or to real property in this state by virtue of an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state, provid-

ing for escheats in certain cases, prescribing the procedure therein, and repealing all acts or parts of acts inconsistent or in conflict therewith," approved May 19, 1913, and no proceedings have been instituted in regard thereto, as provided in said act, any person or persons claiming to own any such real property in fee, which claim is based upon a right existing prior to the said nineteenth day of May, A. D. 1913, is and are authorized to bring suit against the state of California in any court of competent jurisdiction in said state, within one year from the date upon which this act takes effect, to quiet title to the said real property or any portion thereof, and to prosecute the same to final judgment. The rules of practice in civil cases relating to suits to quiet title shall apply to such suits as may be brought under this authorization except as otherwise provided. If judgment be given against the state in such suits, no costs can be recovered from the state.

§ 2. **Service of summons.** Service of summons in such suits shall be made on the governor and attorney general of the state. It shall be the duty of the attorney general to defend in all such suits.

§ 3. **Judgment.** In all such cases judgment shall not be entered by default but proceedings shall be had as provided in section seven hundred fifty-one of the Code of Civil Procedure of the state of California, and the judgment when entered shall have the same force and effect against the state of California as in said section provided against other defendants.

TITLE 529.

STATE COMMISSION MARKET.

See post, Title 534a, State Market Commission.

ACT 3807.

An act to provide for the creation of the state commission market, and the organization thereof, to carry on the business of receiving from the producers thereof the agricultural, fishery, dairy and farm products of the state of California and selling and disposing of such products on commission, creating the "state commission market fund" and appropriating money therefor. [Approved June 10, 1915. Stats. 1915, p. 1390.]

Repealed 1917; Stats. 1917, p. 1669. See post, Act 3847.

TITLE 530.

STATE ENGINEERING.

ACT 3812.

An act to create for the state of California a department of engineering, to provide for the appointment of the officers and employees thereof, defining its powers and prescribing the duties of said department, its officers and employees, to provide the compensation of such officers and employees, to make an appropriation for the salaries and other expenses for the remainder of the fifty-eighth fiscal year and making certain acts a felony and repealing an act entitled "An act

creating a commissioner of public works, defining his duties and powers and fixing his compensation," approved February 9, 1900, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to create a department of highways for the state of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year," approved April 1, 1897; also repealing an act entitled "An act providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges, and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the purposes of this act," approved March 17, 1897, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March 24, 1893, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to create the office of Lake Tahoe wagon road commissioner, providing the term of office and compensation of such commissioner, defining his duties, and making an appropriation for the salary and expenditures provided for and authorized by this act," approved April 1, 1897, and all acts or parts of acts amendatory thereof.

[Approved March 11, 1907. Stats. 1907, p. 215.]

Amended 1909, p. 558; 1911, p. 823; 1915, pp. 630, 898; 1917, pp. 541, 690.

The amendments of 1917 follow:

§ 1. Department of engineering created. California highway commission. A department of and for the state of California to be known as the department of engineering is hereby created, to consist of an advisory board composed of the governor as ex-officio member and chairman of said board, the state engineer, who shall be the chief executive officer of the department, the general superintendent of state hospitals, the chairman of the state board of harbor commissioners of San Francisco, and three other members to be appointed by the governor, which said three appointive members shall hereafter in this act be designated as the appointed members of said advisory board. Said three appointed members shall compose a subdivision of said department of engineering designated as the California highway commission. The said department, its officers and employees, shall have and exercise the powers and duties hereinafter set forth and specified, and such as are or may be hereafter provided by law. [Amendment approved May 18, 1917; Stats. 1917, p. 692.]

§ 1½. **Consulting board. Meetings. Reports.** [Repealed May 18, 1917; Stats. 1917, p. 692.]

§ 2. **Head of department.** Upon this act becoming effective the governor shall appoint a competent civil engineer as the head of the department of engineering, and such person shall be known as the state engineer. The state engineer shall devote his entire time to the services of the state and shall not actively engage in any other pursuit while serving as such state official. He shall have charge of all the engineering and structural work of the department. [Amendment approved May 15, 1917; Stats. 1917, p. 543.]

§ 6. **Employees, engineering department.** The department of engineering, by and through the state engineer, shall have power to appoint two assistant engineers, a secretary, one state architect, one assistant state architect, a general superintendent for the architectural division, one mechanical engineer, one architectural designer, one structural engineer, an auditor, one electrical engineer, one estimator, one specification writer, one engineer's draftsman, three architectural draftsmen, two clerks, two stenographers, a blue-print pressman, a janitor, and such additional assistance as the advisory board may, in its judgment, deem necessary, and to fix their salaries and compensation, which officers and appointees shall hold office at the pleasure of the appointive power, and who must be confirmed by the advisory board before proceeding with their duties. Such officers and employees shall devote their entire time to the service of the department. [Amendment approved May 15, 1917; Stats. 1917, p. 543.]

§ 9. **Control of state highways. Expenditures. Power to obtain rights of way. Powers of state engineer assumed by highway commission. Highway engineering.** The department of engineering shall take and have full possession and control of all roads and highways which have been declared and adopted state roads and state highways and all state roads and state highways which may hereafter be acquired and constructed. All expenditures by the state for highway purposes, except as otherwise hereafter provided by law, shall be under the full charge of the department of engineering, and all moneys appropriated for such purpose shall be made payable upon the proper demand of said department when approved and audited by the state board of control. The department of engineering, in the name of the people of the state of California, shall have the power to obtain or condemn necessary rights of way for any authorized state highway or for the change of any existing state highway or for any road placed under the department's charge by law unless otherwise provided. It shall have power to alter or change the route of a road and shall do all things necessary, and obtain all tools and implements required to properly care for and manage the roads under the charge of the department. Whenever, under any statutes of this state, the performance of any duty or obligation is imposed upon the department of highways, the same shall be assumed by, and the performance of the same shall devolve upon, the department of engineering. The said California highway commission shall forthwith

assume and have and exercise all of the powers and duties of the state engineer relating to state roads and state highways and other roads and highways heretofore by law conferred or imposed upon said state engineer, and the said state engineer shall immediately relinquish and transfer to the said California highway commission all funds, papers, maps, records and other documents of the department of engineering relating to the roads and highways of the state and thereafter the state engineer shall have no further duty, power or responsibility with regard to roads and highways, save only such as shall devolve upon him as a member of the advisory board of the department of engineering. Said California highway commission shall have the supervision and direction of all state roads and state highways now existing and the improvement, maintenance, repair and protection thereof, and have charge of and perform all other duties relating to state roads and state highways which may be imposed upon said commission by said advisory board. The highway engineer shall be the chief executive officer of the California highway commission and shall perform such duties as may be imposed upon him by the California highway commission which are not in conflict with any duties which may be placed upon him by said advisory board. [Amendment approved May 18, 1917; Stats. 1917, p. 692.]

§ 10. Duties of highway commission. Act for road districts, etc. Biennial reports. The California highway commission, in addition to such other duties as may be imposed upon such commission by law, shall—

(a) Make such investigations as will put at the service of the state the most approved methods of highway improvement;

(b) Compile statistics relative to the public highways of counties and municipalities;

(c) If deemed expedient by said commission and at the expense of the applicants, either in whole or in part, as determined by said commission, said county, road or boulevard district or division and municipal authorities, upon request of such county, road or boulevard district or division and municipal authorities, in establishing grades and road drainage systems and advise with them as to the construction, improvement and maintenance of highways and bridges.

(d) If deemed expedient by said commission and at the expense of the applicants, either in whole or in part, as determined by said commission, cause plans, specifications and estimates to be prepared for the repair and improvement of highways and bridges, and in its discretion, also act as the consulting engineer for any county, road or boulevard district or division, or municipal authorities, when requested to do so by the county, road or boulevard district or division or municipal authorities; and said commission may, in its discretion, and upon the request of the governing board of any county, permanent road division, road or boulevard district or division, accept the funds of any such political subdivision for deposit in the state treasury, said funds to be deposited in such state fund or funds as said commission may designate, and the state department of engineering shall use and expend the funds so deposited for the construction of bridges, roads or boulevards situated

within such political subdivision, in accordance with the plans and specifications and other terms as are mutually agreed upon by said commission, on behalf of the state of California, and such governing board; provided, however, that any bridge, road or boulevard constructed under the provisions of this section by and under the jurisdiction of said state department of engineering shall revert to the original jurisdiction and control immediately upon the completion thereof, unless such bridge, road or boulevard shall, in the opinion of said commission, be and constitute an integral part of the state highway system as contemplated by the state highways act and the state highways act of 1915 or as otherwise provided by law; and, further, the governing board of any county, permanent road division, or road or boulevard district or division may pay into the state treasury, as provided herein, for the purposes hereof, any funds under its jurisdiction and control subject to use for bridge, road or boulevard purposes, created by tax levy or issuance of the bonds of any such political subdivision or otherwise.

(e) Investigate and determine upon the various methods of road construction adapted to the different sections of the state, as to the best methods of construction and maintenance of highways and bridges, and make such experiments in relation thereto from time to time as said commission deems expedient.

(f) Aid at all times in promoting highway improvement throughout the state.

(g) Have the power to call upon any state, county or municipal official to furnish said commission with any information contained in his office which relates to, or is in any way necessary to, the proper performance of the work of said department of engineering, and it is hereby made the duty of such officials to furnish such information without cost.

(h) Prepare biennial reports relating to road and highway work which shall be incorporated by the state engineer in his biennial reports which he is required by law to submit to the governor at least thirty days before each session of the legislature. [Amendment approved May 18, 1917; Stats. 1917, p. 692.

§ 13. Co-operative work with United States government. All co-operative engineering work now existing or to be engaged in by the state with the United States government shall be placed under the department of engineering. All plans, estimates and specifications shall be approved by the state engineer except that in the case of road and highway work all plans, estimates and specifications shall be approved by the California highway commission, and the advisory board shall have full power to determine the kind, quality and extent of such work under co-operation with said government before entering into agreement with said government for such work. All unexpended moneys provided for by law on the aforesaid co-operative basis shall be expressly placed under the full control of the department of engineering and the state controller shall transfer such funds to the credit of the said department. Hereafter plans, estimates and specifications for such work shall be filed in the office of said department. All moneys received by the state treasurer from the United States government under project agreements relating to federal aid road work shall be credited by the state controller

to such fund or funds as the state department of engineering shall designate. [Amendment approved May 18, 1917; Stats. 1917, p. 694.]

§ 16. **Biennial report of state engineer.** The state engineer shall prepare biennial reports which shall be submitted to the governor at least thirty days before each session of the legislature. Said report shall embrace the work and investigations of the department under his charge for the previous two years, together with such recommendations for changes in the laws affecting the department as he may deem advisable. It shall be the duty of the state printer to print all reports, bulletins or other matter and furnish any other necessary illustrations or diagram therefor as the department may deem necessary, all of which shall, however, be subject to the approval of the state board of examiners. [Amendment approved May 18, 1917; Stats. 1917, p. 695.]

§ 17. **Salaries. Bond.** The highway engineer shall receive not to exceed the sum of ten thousand dollars per annum; the state engineer shall receive the sum of five thousand dollars per annum; each assistant engineer shall receive the sum of three thousand dollars per annum; the secretary shall receive the sum of three thousand dollars per annum; the state architect shall receive the sum of four thousand eight hundred dollars per annum; the assistant state architect shall receive the sum of three thousand dollars per annum; the general superintendent for the architectural division shall receive the sum of three thousand dollars per annum; the mechanical engineer shall receive the sum of two thousand seven hundred dollars per annum; the architectural designer shall receive the sum of two thousand seven hundred dollars per annum; the structural engineer shall receive the sum of two thousand four hundred dollars per annum; the auditor shall receive the sum of two thousand four hundred dollars per annum; the electrical engineer shall receive the sum of two thousand one hundred dollars per annum; the estimator shall receive the sum of two thousand one hundred dollars per annum; the specification writer shall receive the sum of two thousand one hundred dollars per annum; the engineer's draftsman shall receive the sum of two thousand dollars per annum; two architectural draftsmen shall receive the sum of two thousand one hundred dollars per annum, each; one architectural draftsman shall receive the sum of one thousand eight hundred dollars per annum; two clerks shall receive the sum of one thousand eight hundred dollars each, per annum; two stenographers shall receive the sum of one thousand five hundred dollars each, per annum; the blue-print pressman shall receive the sum of one thousand five hundred dollars per annum; the janitor shall receive the sum of nine hundred dollars per annum. Such salaries shall be paid at the same time and in the same manner as are the salaries of other state officers. The highway engineer shall furnish the state with a bond in the sum of twenty thousand dollars; the two assistant engineers and the state architect shall each furnish the state with a bond in the sum of ten thousand dollars; and the secretary shall furnish the state with a bond in the sum of fifteen thousand dollars, for the faithful performance of their duties. Such bonds must be approved by the governor of the state of

California, and filed in the office of the secretary of state. Each of the three appointed members of the advisory board shall receive the sum of three thousand six hundred dollars per annum. Each and every one of the above-mentioned officers shall take the oath of office as prescribed for other state officers. The members of the advisory board, the state engineer and other officers and employees of the department of engineering shall be allowed their necessary traveling expenses while engaged in the discharge of their duties within the state. Every employee of the department of engineering who is intrusted with moneys belonging to the state and who is not already required by law to furnish an official bond shall file a bond if the said department shall so require in such an amount as the department shall deem to be expedient with two sufficient sureties thereon or with a surety company of recognized standing for the faithful performance of his trust, which bond must be approved by the state board of control and filed with the state treasurer. The premium or charge for every such bond, if given by a surety company, shall be paid by said department out of the particular fund under its control, from which fund the moneys are withdrawn and placed in the custody of the bonded employee or out of that fund to which the services of such employee directly pertain. [Amendment approved May 15, 1917; Stats. 1917, p. 543.]

ACT 3818b.

An act to appropriate money to be expended by and under the direction of the department of engineering for the purpose of rectifying and improving the channels of the Sacramento, San Joaquin and Feather rivers and such other waters of the state as the department of engineering may determine; improving the navigability of such waters and acquiring land for necessary rights of way therefor; making surveys, investigations and report upon the feasibility of canalizing the rivers of the state and constructing canals for navigation, and making surveys, investigations and plans for flood control; the examination and supervision of dams; the investigation of rainfall, snowfall and runoff affecting navigation and flood control; and giving the department of engineering authority over dams, making it unlawful to construct or maintain dams in a dangerous condition and providing penalties for violations of the act and directing who shall prosecute such violations.

[Approved May 14, 1917. Stats. 1917, p. 516. In effect July 27, 1917.]

§ 1. **Appropriation: improving Sacramento, San Joaquin and Feather rivers.** The sum of one hundred fifty thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to be expended by the department of engineering for the purpose of rectifying and improving the channels of Sacramento, San Joaquin and Feather rivers, and such other waters of the state as the department of engineering may determine, improving the navigability of such waters, acquiring land for necessary rights of way for such improvements; making surveys, investigations and reports upon the feasibility

of canalizing the rivers of the state and constructing navigable canals, making surveys, investigations and plans for flood control upon any stream, the flood waters of which may injure or menace lands in the state of California, including the examination and supervision of dams, and investigation of rainfall, snowfall and runoff affecting or tending to affect navigation or flood control upon any of the streams of the state; provided, however, that before any expenditure shall be made or contracts awarded by said department for construction work to be done affecting navigable waters, the plans therefor shall be approved by the proper officers of the government of the United States having charge of river work in California.

§ 2. **Dams under authority of department of engineering.** (a) All dams in the state of California, other than those for impounding mining debris constructed under the authority of the California debris commission, or dams constructed by a municipal corporation maintaining a department of engineering, shall be under the authority of the state department of engineering, and the department shall exercise supervision over any dam, the failure of which would endanger life or property, and shall have power to prescribe and enforce compliance with measures for making such dams safe against failure; provided, that this section shall not apply to any dam which is part of a "water system" as defined in section two of the public utilities act of this state, and nothing in this act shall be construed to limit the jurisdiction of the railroad commission over such dams.

(b) **Approval of plans.** It shall be unlawful for any person, firm, corporation or district to construct, maintain or operate any dam known to be unsafe, or which if the destruction or failure thereof would endanger life or property; or to construct, reconstruct, repair or improve, maintain or operate any dam which is or would be ten feet or more in height or which will impound water or other fluid to the amount of three million gallons unless the plans, specifications and construction thereof shall have been approved in writing by the state department of engineering.

(c) **Penalty.** Any person, firm, corporation or district who shall violate the provisions of this section is subject to a penalty of not less than five hundred nor more than two thousand dollars for each and every offense. Each day that such violation of the provisions of this section shall continue shall be deemed and considered a separate and distinct offense.

(d) **Permitting work contrary to plans felony.** Any person acting for himself as owner, or as director, officer, agent or employee of any firm, corporation or district engaged in the construction, reconstruction, improvement or repair of any dam, the plans and specifications of which have been approved by the department of engineering, or any contractor, or agent or employee of such contractor, who shall knowingly permit work to be executed thereon contrary to the plans and specifications approved as aforesaid, or any inspector or employee of the department of engineering who shall have knowledge of such work being done and fail to immediately notify the department of engineering thereof, is guilty of a felony and subject to the penalty of confinement in the state penitentiary for not less than one nor more than five years.

(e) **Duty of district attorney.** Upon the complaint of the department of engineering any district attorney is hereby authorized and directed to prosecute violations of the provisions of this section.

§ 3. **Audit.** All expenditures hereunder for rights of way, labor, materials and machinery, or in payment, in whole or in part, of any contract shall, before being paid, be audited by the state board of control, as provided by law.

§ 4. **When available.** Of the money herein appropriated fifty thousand dollars shall become available immediately upon this act becoming effective and the remaining one hundred thousand dollars shall become available on the first day of July, 1918.

ACT 3818c.

An act to provide for the accomplishment of the work of the direct improvement of the navigation of the Sacramento, San Joaquin and Feather rivers of the state of California, by controlling the floods, removing the debris and continuing the improvement of the Sacramento river, California, in accordance with the plans of the California debris commission contained in the report of said commission submitted August 10, 1910, and transmitted to the speaker of the house of representatives of the United States by the secretary of war on June 27, 1911, and printed in house of representatives document number eighty-one of the first session of the sixty-second United States congress, as modified by the report of said commission submitted February 8, 1913, approved by the chief of engineers of the United States army and the board of engineers for rivers and harbors and printed in rivers and harbors committee document number five, sixty-third United States congress, first session, in so far as said plan provides for the rectification and enlargement of river channels and the construction of weirs; and making an appropriation for such work; and providing for the continuance of such work as provided by section two of an act of the congress of the United States entitled "An act to provide for the control of the floods of the Mississippi river and of the Sacramento river, California, and for other purposes," approved March 1, 1917.

[Approved May 15, 1917. Stats. 1917, p. 536. In effect July1, 1917,]

§ 1. **Appropriation: flood control.** The sum of five hundred thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, which shall be available July 1, 1917, for controlling the floods, removing the debris and continuing the improvement of the Sacramento river, California, in accordance with the plans of the California debris commission contained in the report of said commission submitted August 10, 1910, and transmitted to the speaker of the house of representatives of the United States by the secretary of war on June 27, 1911, and printed in house of representatives document number eighty-one of the first session of the sixty-second United States congress, as modified by the report of said commission submitted February 8, 1913, approved by the chief of engineers

of the United States army and the board of engineers for rivers and harbors and printed in Rivers and Harbors Committee Document Number Five, Sixty-third United States Congress, First Session, in so far as said plan provides for the rectification and enlargement of river channels and the construction of weirs.

§ 2. **Condition.** The appropriation made by section one of this act is made in compliance with the provisions of section two of that certain act of congress of the United States entitled "An act to provide for the control of the floods of the Mississippi river and of the Sacramento river, California, and for other purposes," approved March 1, 1917, and shall be paid to the treasurer of the United States whenever a like sum of five hundred thousand dollars shall have been appropriated or authorized to be appropriated by the congress of the United States, conditional on the payment of an equal amount by the state of California, for the prosecution of said work pursuant to section two of said act of congress.

§ 3. **Expended by California debris commission.** The money hereby appropriated, when paid to the treasurer of the United States, shall be expended under the direction of the California debris commission and in such manner as it may require or approve, and as provided in section two of said act of congress; and none of the money so appropriated shall be expended in the purchase of or payment for any right of way, easement or land acquired for the purposes of said improvement.

§ 4. **Controller's warrant.** The controller of the state of California is hereby authorized and directed, upon request of the governor, to draw his warrant or warrants on the state treasurer in favor of the treasurer of the United States for the amount hereby appropriated, and the state controller is hereby directed to pay the same.

§ 5. **In case less sum appropriated by congress.** If the congress of the United States shall not appropriate the full sum of five hundred thousand dollars for the prosecution of said work in accordance with section two of said act of congress, as hereinbefore referred to, but shall appropriate a less sum or sums from time to time for said purpose, then the said sum hereby appropriated shall become available and be paid over to the treasurer of the United States, for said purpose as hereinbefore provided, in such sum or sums from time to time as may equal the sum or sums so appropriated or authorized to be appropriated by congress.

TITLE 532a.

STATE LAND SETTLEMENT BOARD.

ACT 3822.

An act creating a state land settlement board and defining its powers and duties and making an appropriation in aid of its operations.

[Approved June 1, 1917. Stats. 1917, p. 1566. In effect July 31, 1917.]

§ 1. **Importance of land settlement.** The legislature believes that land settlement is a problem of great importance to the welfare of all the

people of the state of California and for that reason through this particular act endeavors to improve the general economic and social conditions of agricultural settlers within the state and of the people of the state in general.

§ 2. **State land settlement board created. Term. Per diem and expenses. Officers. Superintendent.** With the object of promoting closer agricultural settlement, assisting deserving and qualified persons to acquire small improved farms, providing homes for farm laborers, increasing opportunities under the federal farm loan act, and demonstrating the value of adequate capital and organized direction in subdividing and preparing agricultural land for settlement, there is hereby created a state land settlement board to consist of five members appointed by the governor to hold office for a term of four years and until their successors have been appointed and shall have qualified; provided, however, that of the members first appointed two shall be appointed to hold office until the first day in January, nineteen hundred eighteen, one until the first day in January, nineteen hundred nineteen, one until the first day in January, nineteen hundred twenty, and one until the first day in January, nineteen hundred twenty-one.

The members of the board shall receive a per diem for each meeting attended, to be fixed by the state board of control with the approval of the governor; they shall also receive their actual, necessary traveling expenses in the discharge of their duties.

The board shall elect its own chairman and secretary. The secretary may or may not be a member of the board. The board shall appoint a superintendent who shall be the general executive officer of the board, and such expert, technical, and clerical assistance as may prove necessary, and shall define their duties. It shall fix the salaries of all officers and other employees, with the approval of the state board of control.

§ 3. **Body corporate. Quorum.** The state land settlement board hereinafter called the board, shall constitute a body corporate with the right on behalf of the state to hold property, receive and request donations, sue and be sued, and all other rights provided by the constitution and laws of the state of California as belonging to bodies corporate.

Three members of the board shall constitute a quorum and such quorum may exercise all the power and authority conferred on the board by this act.

§ 4. **Agricultural lands to be acquired and sold.** For the purposes of this act the board may in the manner hereinafter provided acquire on behalf of the state agricultural lands in California that are susceptible of intensive culture and suitable for colonization in an area of not more than ten thousand acres, together with any water rights and rights of way desirable or necessary therefor, and shall without delay improve, subdivide and sell such lands with appurtenant water rights to approved bona fide settlers under the conditions and in the manner hereinafter provided; provided, that, with the approval of the governor, the board shall have the authority to set aside for townsite purposes a suitable area purchased under the provisions of this act and to subdivide such

area and sell or lease the same for cash, in lots of such size, and with such restrictions as to resale, as, with the approval of the governor, they shall deem best; and provided, further, that the board shall have authority to set aside and dedicate to public use such area or areas as it may deem desirable for roads, schoolhouses, churches, or other public purposes.

§ 5. **Purchase of private lands.** Whenever the board believes that private land should be purchased for settlement under this act, it shall give notice by publication in one or more newspapers of general circulation in this state, setting forth the area and character of the land desired and the conditions that shall govern such proposed purchase, and inviting owners of lands believed to be suitable, and who are willing to enter into a contract for the sale of such lands on the conditions proposed, to submit such lands for inspection.

§ 6. **Inspection of tracts.** Within thirty days thereafter the board shall direct an officer or officers in its employ, or one or more persons who may at its request be designated by the dean of the college of agriculture of the University of California, to inspect and report on all tracts of land suitable for closer settlement which are so submitted.

§ 7. **Report of inspection.** The board shall give not less than one week's notice of the approximate date when tracts submitted will be inspected and every report of such inspection shall as far as practicable specify the—

(a) Situation and brief description thereof;

(b) Extent and situation of land comprising so much of any tract as it is proposed to acquire;

(c) Names and addresses of the owners thereof;

(d) Character of water rights;

(e) Nature of improvements;

(f) Crops being grown on land;

(g) Appraisement of value of land, water rights and improvements.

§ 8. **Decision.** On receiving the reports on all of the land examined the board shall decide which of the areas is best suited to the purposes of this act. Before so deciding the board may examine the land, or it may employ one or more competent valuers to fix the productive value of the land and report the same in writing; the owner or his agent may give evidence as to its value.

§ 9. **Purchase.** If from the evidence submitted or from the results of its personal inspection the board is satisfied that one or more of the tracts submitted are suited to intensive closer settlement and can be acquired at a reasonable price, it shall submit to the governor its report, giving the reasons for recommending the purchase, and on the approval of the governor the board shall be authorized to purchase the same; provided, that before such purchase is made, the attorney general shall approve the title of such lands and any water rights appurtenant thereto, and the president of the state water commission shall certify in writing as to the sufficiency of any water rights to be conveyed.

§ 10. **Control by board until moneys advanced repaid.** All purchases of land under this act shall be made under such terms and conditions as shall give to the board full control of any subdivisions thereof until all moneys advanced by the state for the purchase, improvement, or equipment of such subdivisions are fully repaid, together with interest thereon as herein provided.

§ 11. **Subdivision. Improvement of land. Seeds. Cottages and water. Loans.** Immediately upon taking possession of any land purchased as above, and after deducting any areas to be set aside for town sites or public purposes in accordance with section four of this act, the board shall subdivide it into areas suitable for farms and farm laborers' allotments, and lay out, and where necessary, construct roads, ditches, and drains for giving access to and insuring the proper cultivation of the several farms and allotments. The board, prior to disposing of it to settlers, or at any time after such land has been disposed of, but not after the end of the fifth year from the commencement of the term of the settler's purchase contract, may—

(a) Prepare all or any part of such land for irrigation and cultivation;

(b) Seed, plant, or fence such land, and cause dwelling-houses and outbuildings to be erected on any farm allotment or make any other improvements not specified above necessary to render the allotment habitable and productive in advance of or after settlement, the total cost of such dwellings, outbuildings, and improvements not to exceed one thousand five hundred ($1,500) dollars on any one farm allotment;

(c) Cause cottages to be erected on any farm laborer's allotment and provide a domestic water supply, the combined cost of the cottage and water supply not to exceed eight hundred ($800) dollars on any one farm laborer's allotment;

(d) Make loans to approved settlers on the security of stock and farm implements, such loans to be secured by mortgage or mortgages on such stock or farm implements, and the total amount of any such loan, together with money spent by the board on improvements as above specified, not to exceed three thousand dollars on any one farm allotment.

§ 12. **Irrigation works.** Authority is hereby granted to the board, where deemed desirable, to operate and maintain any irrigation works constructed to serve any lands purchased and sold under the provisions of this act. All moneys received in tolls or charges for the operation and maintenance of any works or for any water supplied therefrom, shall be deposited in the land settlement fund created by this act and shall become available for the payment of any costs, expenses, or other charges authorized in this act to be paid from said land settlement fund.

§ 13. **Lease.** After the purchase of land by the board under the provisions of this act and before its disposal to approved bona fide applicants the board shall have authority to lease such land or a part thereof on bonded or secured lease on such terms as it shall deem fit.

§ 14. **Allotments. Notice of opening for settlement. Right to reject applications.** Lands disposed of under this act, other than lands set

aside for town sites or public purposes, shall be sold either as farm allotments, each of which shall have a value not exceeding, without improvements, fifteen thousand dollars, or as a farm laborer's allotments, each of which shall have a value not exceeding, without improvements, four hundred dollars. Before any part of an area is thrown open for settlement there shall be public notice thereof for thirty days in one or more daily newspapers of general circulation in the state, setting forth the number and size of farm allotments or farm laborer's allotments, or both, the prices at which they are offered for sale, the minimum amount of capital a settler will be required to have, the mode of payment, the amount of cash payment required, and such other particulars as the board may think proper and specifying a definite period within which applications therefor shall be filed with the board on forms provided by the board. The board shall have the right in its uncontrolled discretion to reject any or all applications it may see fit and may readvertise as aforesaid as often as it sees fit until it receives and accepts such number of applications as it may deem necessary.

§ 15. **Who may apply. Limit. Fitness to cultivate.** Any citizen of the United States, or any person who has declared his intention of becoming a citizen of the United States, and who is not the holder of agricultural land or of possessory rights thereto to the value of fifteen thousand dollars, and who by this purchase would not become the holder of agricultural land or of possessory rights thereto exceeding such value, and who is prepared to enter within six months upon actual occupation of the land acquired, may apply for and become the purchaser of either a farm allotment or a farm laborer's allotment; provided, that no more than one farm allotment or more than one farm laborer's allotment shall be sold to any one person; provided, further, that no applicant shall be approved who shall not satisfy the board as to his or her fitness successfully to cultivate and develop the allotment applied for.

§ 16. **Applications considered.** Within ten days after the final date set for receiving applications for either farm allotments or farm laborer's allotments the board shall meet to consider the applications, and may request applicants to appear in person; provided, that the board shall have the power and the uncontrolled discretion to reject any or all applications.

§ 17. **Selling prices.** The selling prices of the several allotments into which lands purchased under this act are subdivided, other than those set aside for town site and public purposes, shall be fixed by the board, so as to render such allotments as nearly as possible equally attractive, and calculated to return to the state the original cost of the land, together with a sufficient sum added thereto to cover all expenses and costs of surveying, improving, subdividing, and selling such lands, including the payment of interest, and all costs of engineering, superintendence, and administration, including the cost of operating any works built, directly chargeable to such land, and also the price of so much land as shall on subdivision be used for roads and other public purposes, and also such sum as shall be deemed necessary to meet unforeseen contingencies.

§ 18. **Contract of purchase. Cash deposit. Loan from federal farm loan bank. Balance paid in amortizing payments.** Every approved applicant shall enter into a contract of purchase with the board, which contract shall among other things provide that the purchaser shall pay as a cash deposit a sum equal to five per cent of the sale price of the allotment and in addition not less than ten per cent of the cost of any improvements made thereon, and, unless prepared to pay one-half of the purchase price in cash, such applicant shall enter into an agreement to make an immediate application for a loan from the federal farm loan bank under the provisions of the federal farm loan act for an amount equal to fifty per cent of the appraised value of the land and twenty per cent of the value of the improvements thereon, and shall pay the amount of any loan so made to the board as a partial payment on such land and improvements. The balance due on the land shall be paid in amortizing payments extending over a period to be fixed by the board not exceeding forty years, together with interest therefor at the rate of five per cent per annum. The amount due on improvements shall be paid in amortizing payments extending over a period to be fixed by the board not exceeding twenty years, together with interest thereon at the rate of five per cent per annum. The repayment of loans made on livestock or implements shall extend over a period to be fixed by the board not exceeding five years; provided, however, in each case, that the settler shall have the right on any installment date after five years from the first payment, but not before, to pay any or all installments still remaining unpaid.

§ 19. **Calculation of installments.** The number and amount of yearly or half yearly installments of principal and interest to be paid to the board under contracts of purchase shall be calculated according to any table adopted or approved by the federal farm loan board.

§ 20. **Cultivation of land. Insurance.** Every contract entered into between the board and an approved purchaser shall contain among other things provisions that the purchaser shall cultivate the land in a manner to be approved by the board and shall keep in good order and repair all buildings, fences, and other permanent improvements situated on his allotment, reasonable wear and tear and damage by fire excepted. Each settler shall, if required, insure and keep insured against fire all buildings on his allotment, the policies therefor to be made out in favor of the board and to be such amount or amounts and in such insurance companies as may be prescribed by the board.

§ 21. **Consent to transfer allotment. Cancellation of contract.** No allotment sold under the provisions of this act shall be transferred, assigned, mortgaged, or sublet in whole or in part, within five years after the date of such contract without the consent of the board given in writing. At the expiration of five years after the purchase of an allotment, if the board is satisfied that all covenants and conditions of the contract covering such allotment purchase have been complied with, the purchaser may, with the written consent of the board, transfer, assign, mortgage, sublet, or part with the possession of the whole or any part of the allotment covered by such contract.

In the event of a failure of a settler to comply with any of the terms of his contract of purchase and agreement with the board, the state and the board shall have the right at its option to cancel the said contract of purchase and agreement and thereupon shall be released from all obligation in law or equity to convey the property and the settler shall forfeit all right thereto and all payments theretofore made shall be deemed to be rental paid for occupancy. The failure of the board or the state to exercise any option to cancel for any default shall not be deemed as a waiver of the right to exercise the option to cancel for any default thereafter on the settler's part. But no forfeiture so occasioned by default on the part of the settler shall be deemed in any way, or to any extent, to impair the lien and security of the mortgage or trust instrument securing any loan that it may have made as in this act provided. The board shall have the right and power to enter into a contract of purchase for the sale and disposition of any land forfeited as above provided because of default on the part of a settler.

§ 23. **Residence.** Actual residence on any allotment sold under the provisions of this act shall commence within six months from the date of the approval of the application and shall continue for at least eight months in each calendar year for at least ten years from the date of the approval of the said application, unless prevented by illness or some other cause satisfactory to the board; provided, that in case any farm allotment disposed of under this act is returned to and resold by the state, the time of residence of the preceding purchaser may in the discretion of the board be credited to the subsequent purchaser.

§ 24. **Condemnation of water rights and rights of way. Appropriation of water.** The power of eminent domain shall be exercised by the state at the request of the board for the condemnation of water rights and rights of way for roads, canals, ditches, dams, and reservoirs necessary or desirable for carrying out the provisions of this act, and on request of the board the attorney general shall bring the necessary and appropriate proceedings authorized by law for such condemnation of said water rights or rights of way, and the cost of all water rights or rights of way so condemned shall be paid out of the land settlement fund hereinafter provided for. The board shall have full authority to appropriate water under the laws of the state when such appropriation is necessary or desirable for carrying out the purposes of this act.

§ 25. **Appropriation. "Land settlement fund." Administrative expenses.** For the purpose of carrying out the provisions of this act the sum of two hundred sixty thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated. Of this amount, the sum of two hundred fifty thousand dollars shall constitute a revolving fund to be known as the "land settlement fund," which is calculated to be returned to the state with interest at the rate of four per cent per annum within a period of fifty years from the date of the passage of this act. The remaining ten thousand dollars shall constitute a fund available for the payment of administrative expenses alone until such time as other moneys are available for such purposes from the sales

of land as provided for in this act. The state controller is hereby authorized and directed to draw warrants upon such funds from time to time upon requisition of the board approved by the state board of control, and the state treasurer is hereby authorized and directed to pay such warrants.

§ 26. **Advances by board of control.** The state board of control is hereby authorized to provide for advances of money to the board needed to meet contingent expenses to such an amount, not exceeding five thousand dollars as the said board of control shall deem necessary.

§ 27. **Payments by settlers, disposition of.** The money paid by settlers on lands, improvements, or in the repayment of advances, shall be deposited in the land settlement fund and be available under the same conditions as the original appropriation for the following purposes:

(a) Making improvements on land being prepared for settlement;

(b) Making advances to settlers; and

(c) Completing payments on lands purchased; provided, that when these expenditures on an area of ten thousand acres shall have been completed, then all moneys received shall be paid into the state treasury and used to reimburse the state for the land settlement fund created by this act.

§ 28. **Rules and regulations.** The board with the approval of the governor shall have authority to make all needed rules and regulations for carrying out the provisions of this act.

§ 29. **Investigation of land settlement conditions.** The board is hereby authorized to investigate land settlement conditions in California and elsewhere and to submit recommendations for such legislation as may be deemed by it necessary or desirable.

§ 30. **Stats. 1915, p. 475, repealed.** The act of the legislature entitled "An act providing for the appointment of a commission to investigate and report at the forty-second session of the legislature relative to the adoption of a system of land colonization and rural credits and making an appropriation therefor," approved May 17, 1915, is hereby repealed.

§ 31. **Title.** This act may be known and cited as the "land settlement act."

TITLE 533.

STATE LANDS.

ACT 3834a.

An act for the relief of purchasers of school lands.

[Approved June 3, 1913. Stats. 1913, p. 376.]

Amended 1917; Stats. 1917, p. 62.

The amendment of 1917 follows:

§ 1. **Relief of school land purchasers.** When application has been made to purchase lands from this state and payment of twenty per cent of the purchase price has been made to the treasurer of the proper county

for the same and a certificate of purchase was issued on or after May 1, 1911, to the applicant therefor, and such applicant has failed to pay the interest on the unpaid balance of the purchase price of such land, said certificate shall be in full force and effect; provided, all interest due on the balance of the purchase price is paid to the proper county treasurer on or before December 31, 1917, together with a penalty of ten per centum of the amount of all interest on the unpaid portion of the purchase price of said lands for each year that the annual interest on the balance of the purchase price of said lands has not been paid since the date of the issuance of the certificate of purchase; and provided, further, that the lands described in said certificate of purchase are open to entry and sale under any law of this state at the time this act shall take effect.

TITLE 534a.

STATE MARKET COMMISSION.

ACT 3847.

An act to provide for the creation of the "state market commission" and the organization thereof; to define its other duties and powers; to create the position of state market director; to define his duties and powers; to create the state market commission fund, and a revolving fund; and repealing that act known as "state commission market act," approved June 10, 1915, chapter seven hundred thirteen of the statutes of 1915, and all other acts and parts of acts in conflict with the provisions of this act.

[Approved June 1, 1917. Stats. 1917, p. 1669.]

§ 1. "State market commission" created. Purposes. There is hereby created the "state market commission," a state organization for the following purposes, to wit:

First—To act as adviser for producers and distributors when requested, assisting them in economical and efficient distribution of any such products at fair prices.

Second—To gather and disseminate impartial information concerning supply, demand, prevailing prices and commercial movements, including common and cold storage of any such products.

Third—To promote, assist and encourage the organization and operation of co-operative and other associations and organizations for improving the relations and services among producers, distributors and consumers of any such products, and to protect and conserve the interests of the producers and consignors of such products.

Fourth—To foster and encourage co-operation between producers and distributors of any such products, in the interest of the general public.

Fifth—To foster and encourage the standardizing, grading, inspection, labeling, handling, storage and sale of any such products.

Sixth—To act as a mediator or arbitrator, when invited by both parties, in any controversy or issue, that may arise between producers and distributors of any such products.

Seventh—To certify, for the protection of owners, buyers or creditors, when so requested, warehouse receipts for any such products, verifying

quantities and qualities thereof, and to charge for such service fees sufficient to make the service at least self-supporting.

Eighth—To issue labels bearing the seal of the state market commission on request of the producer, packer, canner or distributor, for any such products, for which state labels have not otherwise been authorized by law, under such rules and regulations as the director may deem necessary and to charge for such labels such fees as in the judgment of the state market director may be proper.

Ninth—To act on behalf of the consumers of any such products in conserving and protecting their interests in every practicable way.

Tenth—To improve, broaden and extend in every practicable way, the distribution and sale of any such California products throughout the markets of the world.

Eleventh—To promote in the interest of the producer, the distributor, and consumer, economical and efficient distribution and marketing of all or any agricultural, fishery, dairy and farm products produced, grown, raised, caught, manufactured or processed within the state of California.

It shall be within the province of the state market director, hereinafter provided for, to determine and decide, when, where and to what extent, existing conditions render it necessary or advisable to carry out any or all the purposes of this act and he is herewith granted power and authority to carry out any or all of said purposes.

§ 2. **Title of act. Terms defined.** This act shall be known as the "state market commission act."

The following terms used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

The "commission" shall be the state market commission.

The "director" shall be the state market director himself personally or his duly appointed and authorized representative.

The word "products" shall refer to the agricultural, fishery, dairy and farm products produced, grown, raised, caught, manufactured or processed within the state of California.

The term "organizations of producers and distributors" shall include all corporations, societies, associations and organizations of producers or of producers and distributors, or of distributors, co-operative or otherwise, formed for the purpose of facilitating the marketing of any such products.

A "person" shall be understood to include individuals, partnerships, associations and corporations or their agents or employees.

When the singular is used the plural is also included. Whenever the masculine is used, the feminine and neuter are included.

§ 3. **State market director. Secretary.** The state market commission shall consist of a governing body of one person, to be known as the state market director, hereinafter referred to as the director, who shall be appointed by the governor of the state of California, and of a secretary to be appointed by the state market director, as hereinafter provided, and these two shall perform the duties and exercise the powers of the state market commission and shall administer the provisions hereof,

administer oaths, certify to all official acts, and do all proper acts to carry out any and all of the purposes hereof.

§ 4. **Power of director.** The director is hereby vested with full power, authority and jurisdiction to do and perform any and all things which are necessary or convenient in the exercise of any power, authority or jurisdiction designated and conferred upon him under this act.

§ 5. **Bureau of correspondence.** The commission shall have a bureau of correspondence for gathering and disseminating information on all subjects relating to the marketing of California products, and may issue bulletins thereon, and by every practicable means keep the producers informed of the supply and demand and at what market their products can best be handled.

§ 6. **Term. Removal.** The term of office of the director shall be four years or until his successor be appointed by the governor, and the annual salary of the director shall be five thousand dollars. The first appointment of director shall be made upon this act going into effect. The legislature, by a two-thirds vote, may remove the director, for misconduct, neglect of duty, or incompetency.

§ 7. **Term of secretary. Salary.** The state market commission shall have a secretary who shall be appointed by the director and hold office at his pleasure, and shall perform such duties as he may prescribe. The annual salary of the secretary shall be three thousand six hundred dollars.

§ 8. **Seal.** The state market commission shall have a seal bearing the inscription "state market commission of California," which seal shall be affixed to all such instruments as the director shall require.

§ 9. **Salaries.** The salaries of the director and secretary shall be paid to them in the same manner as are the salaries of other state officers.

The salary or compensation of all other persons holding office or employment under the director shall be fixed by the director and shall be paid monthly from the state market commission fund, as hereinafter provided, and after being approved by the director upon claims therefor to be audited by the state board of control.

All expenses incurred by the director pursuant to the provisions of this act, including actual and necessary traveling expenses, and other disbursements of the director, his officers and employees, incurred while on business of the commission shall be paid from the state market commission fund in the same manner, except as provided for in section twelve of this act.

§ 10. **Whole time devoted to duties.** The director shall not engage in any other line of business during his term of office, but shall devote his whole time, attention and ability to the duties of his office. The director shall not hold or own any stock or other interest whatsoever in any produce commission business.

§ 11. **"State market commission" fund.** There is hereby created a fund to be known as the "state market commission fund." All fees,

charges and costs collected by said commission under this act shall be paid into the treasury of the state to the credit of such fund. All appropriations made by this act or any subsequent act for the use of the state market commission, shall be placed to the credit of such fund. All expenses of whatsoever nature, incurred by the commission under the provisions of this act, shall be paid from the state market commission fund, after being approved by the director, upon claims therefor to be audited by the board of control except as provided for in section fourteen *a* of this act.

§ 12. **Revolving fund.** A revolving fund of two hundred fifty dollars shall be established by the board of control for expenses of the state market commission, other than salaries, rent and other regular expenses, and the director may expend such revolving fund without first procuring the authority of the board of control, but shall file vouchers monthly with the board of control covering such disbursement.

§ 13. **Annual report.** The director shall make and submit to the governor, on or before the first day of December of each year, a report containing a full and complete account of the transactions and proceedings of the state market commission for the preceding fiscal year, together with such other facts, suggestions and recommendations as may be deemed of value to the people of the state.

§ 14. **Bond.** The director, before entering upon the duties of his office, shall make and execute to the people of the state of California an official bond in the sum of five thousand dollars, for the faithful performance of the duties of his office. The director may require of the officers and employees such bonds for the faithful performance of their duties as in his judgment may be necessary.

§ 15. **Investigation of products held in storage.** The director may make pertinent investigations concerning the aggregate amount of products held in common and cold storage. In connection with any such investigation, the director shall have the right to inspect only the pertinent books and records of common or cold-storage warehouses for the purpose of determining and publishing aggregate amounts of products held in storage, and the director is hereby empowered to issue subpoenas for the attendance of witnesses and the production of pertinent books, papers, accounts, documents and testimony in any such investigation.

§ 16. **Moneys transferred.** Any and all moneys in the state treasury to the credit of and any moneys due the state commission market fund under the authority of the act creating the state commission market fund, approved June 10, 1915, shall be transferred to the credit of the state market commission fund, created by this act.

§ 17. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason declared to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof, irrespec-

tive of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 18. **Stats. 1915, p. 1390, repealed.** That certain act entitled "An act to provide for the creation of the state commission market, and the organization thereof, to carry on the business of receiving from the producers thereof the agricultural, fishery, dairy and farm products of the state of California and selling and disposing of such products on commission, creating the 'state commission market fund' and appropriating money therefor," approved June 10, 1915, and known as the "state commission market act," chapter seven hundred thirteen of the statutes of 1915, and all other acts and parts of acts in conflict with this act are hereby repealed.

ACT 3588.

An act to empower the state market director of California to regulate and control the business of buying and selling fresh fish; to regulate the destruction of food fish; to create a state fish exchange; to license those engaged in marketing fish; to create a state fish exchange fund and a revolving fund; to provide penalties for violations of this act; to investigate and report on the fish industry; and to promote the sale of fish.

[Approved June 1, 1917. Stats. 1917, p. 1673.]

§ 1. **Title.** This act shall be known as the "state fish exchange act."

§ 2. **Purpose.** It is hereby declared that it is the purpose of this act to bring about an increased consumption of fresh fish by the people of California, to enable them to obtain the same at reasonable prices, and to empower the state market director to regulate and control the business of buying and selling fresh fish, to regulate the destruction of food fish, to create a state fish exchange, to license those engaged in marketing fresh fish, to create a state fish exchange fund, to provide penalties for violations of this act, to investigate and report on the fish industry, and to promote the sale of fish.

§ 3. **Terms construed.** The following terms used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

The "state market director" shall be understood to be himself personally or his duly appointed and authorized representative. A "person" shall be deemed to include individuals, partnerships, associations and corporations or their agents or employees. A "retail dealer," "peddler," or "huckster," is one engaged in the business of selling fresh food fish direct to the consumer. A "wholesale dealer" is one who sells fresh food fish to hotels, restaurants, railroads, steamships, hospitals, institutions and all others than the consumer, and especially to retail dealers for resale. A "fish buyer" or "fish broker" is one engaged in the business of buying or selling fresh food fish for the owner or consignee, or who, without an established place of business, buys from the fishermen for the purpose of reselling to others than the consumer. "Market fisher-

men" are individuals engaged in the business of catching fish under licenses issued by the state fish and game commission authorizing them to do so. When the singular is used, the plural is also included; whenever the masculine is used, the feminine and neuter are included.

§ 4. **Title to fish in state.** It is hereby declared that the ownership and title to all fish found in the waters under the jurisdiction of the state are in the state of California; no such fish shall be caught, taken or killed in any manner or at any time except that the person so catching, taking or killing or having the same in his possession, irrespective of the manner in which they were obtained, shall by such act or possession thereby consent that the title to such fish shall be and remain in the state of California for the purpose of regulating and controlling the use and disposition of same after such catching, taking or killing, except that the title to such fish legally taken shall vest in the person so taking or possessing them, subject to the restrictions and provisions of law. All fish found in the possession of a person within the state of California shall be presumed to have been taken under the jurisdiction of the state.

§ 5. **Fish business regulated by state market director.** (a) The state market director is hereby vested with jurisdiction to regulate and control the business of buying and selling and otherwise disposing of fresh food fish caught in the waters under the jurisdiction of the state, and the business of buying, selling and disposing of such fresh food fish may not be carried on except in accordance with the provisions of this act.

(b) **State markets.** The state market director is hereby vested with jurisdiction to open and conduct where, when, and for so long as he deems it advisable, state markets for the buying and selling of fresh food fish, and to rent, lease or purchase plants and equipment necessary for the same, and to use so much of the funds placed at the disposal of the state market director by the act creating the state commission market, approved June 10, 1915, or in the event of the repeal of said act, by the state market commission act, as may be required in establishing and conducting said markets.

(c) **Additional powers of state market director.** The state market director is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred under this act.

§ 6. **Maximum prices.** (a) The state market director shall, when and where and for so long as he deems it advisable, establish maximum prices to be paid or charged in any particular locality, for food fish of any or all varieties intended for human consumption in its fresh condition, caught in the waters under the jurisdiction of the state:

First—To be paid to those engaged in catching such fish for sale.

Second—To be paid to those engaged in the wholesale fish business.

Third—To be charged to the consumer by retail fish dealers, peddlers or hucksters; and said prices shall be such as will allow, in the judg-

ment of the state market director, a reasonable compensation or profit to those engaged in the catching or selling of such fish.

(b) **Changes in prices.** The state market director may, at his discretion, from time to time make such changes or withdrawals in the prices authorized in section six (*a*) hereof, as he may deem necessary.

(c) **Unlawful to charge more than lawful price.** It shall be unlawful for any person engaged in the business of selling fresh food fish in a particular locality to charge more than the maximum prices authorized for such locality, as provided in section six (*a*) hereof. Any violation of the provisions of this paragraph, after receipt of notice of maximum prices established in accordance with the provisions of section six (*a*) of this act, shall be good and sufficient ground for the suspension or revocation by the state market director in his discretion of any license issued under the authority of this act.

(d) **Advice on maximum prices.** In the exercise of powers under this act, the state market director may confer with parties interested with a view of securing their advice and counsel as to maximum prices to be paid and charged.

§ 7. **Consent to destruction or diversion of fish.** It shall be unlawful for anyone to destroy, or cause or permit to be destroy any food fish in excess of fifty pounds within one day of twenty-four hours or to divert, or cause or permit to be diverted any food fish to any use other than human consumption, without having first obtained the written consent of the state market director to such destruction or diversion. Consent to such destruction or diversion shall be given only where the applicant establishes to the satisfaction of the state market director that such destruction or diversion is not for the purpose of influencing prices and that reasonable efforts have been made to induce its consumption by the public. Nothing in this section shall be construed to apply:

Fish excepted. First—To the use of food fish by fishermen as bait in the customary manner; and,

Second—To any individual market fisherman who is unable to sell for human consumption fish he has caught and who within forty-eight hours after the destruction or diversion of said fish shall report to the state market director the number of pounds and varieties of fish and how disposed of. The deposit in the United States mail of a written statement of said facts, properly addressed to the state market director and stamped, shall be accepted as a sufficient report.

Third—To food fish in the possession of canners, curers or packers and which are not suitable for their use and which in consequence are destroyed or diverted to use other than human consumption; provided, that within forty-eight hours after the destruction or diversion of any such fish, the person responsible therefor shall report to the state market director the number of pounds and varieties of fish, reason for destruction or diversion and how disposed of. The deposit in the United States mail of a written statement of said facts, properly addressed to the state market director, shall be accepted as a sufficient report.

§ 8. When excessive supply of fish reaches market. In the event of a supply of fresh food fish reaching any market, which supply in the judgment of the state market director is excessive or abnormal:

(a) It shall be the duty of the state market director, in his discretion, to use every means at his command to induce its consumption by the public, including reduction in prices thereon and increased publicity, as hereinafter provided for.

(b) It shall be obligatory on the part of market fishermen and wholesale fish dealers, who find themselves possessed of an excessive supply, to notify the state market director of the fact, and failure to give such notice shall be sufficient grounds for the suspension for a period not exceeding one month, in the discretion of the state market director, of any license issued under the authority of this act.

(c) The state market director may at his option, use the moneys of the state fish exchange fund hereinafter provided for, in purchasing any part or all of an excess of food fish over the amount that can be sold through ordinary channels, and to place same in cold storage, and to resell same to any or all buyers, and any loss or profit in such transactions shall be charged or credited to the state fish exchange fund.

§ 9. License fees. Wholesale fish dealers. Payable in advance. If sales greater or less than amount on which fee based. Every person, individual, partnership, association or corporation, other than market fishermen, engaged in the business of buying and selling fish for consumption in its fresh condition, shall pay to the state a semi-annual license fee, as follows:

First—All retail dealers, dealing exclusively in fish, crustaceans and mollusks, ten dollars.

Second—All retail dealers, handling fish in connection with a retail business, owned by them, in other products than crustaceans and mollusks, and all peddlers and hucksters, five dollars.

Third—All fish brokers and all fish buyers, fifty dollars.

Fourth—All fishermen's organizations selling the catch of their members or agents selling the catch of such fishermen's organizations, fifty dollars.

Fifth—All salesmen or agents representing wholesale fish dealers located outside the state, fifty dollars.

Sixth—All wholesale fish dealers, on the basis of their gross receipts from the sale of fresh food fish, including their sales at branch houses, as follows:

When gross receipts for six months are:

Not in excess of twenty-five thousand dollars, fifty dollars.

Between twenty-five thousand dollars and fifty thousand dollars, seventy-five dollars.

Between fifty thousand dollars and one hundred thousand dollars, one hundred dollars.

Between one hundred thousand dollars and two hundred thousand dollars, one hundred fifty dollars.

Between two hundred thousand dollars and three hundred thousand dollars, two hundred dollars.

More than three hundred thousand dollars, two hundred fifty dollars.

Seventh—All branch houses of wholesale dealers—that is, wholesale dealers operating more than one wholesale establishment—for each branch house, five dollars.

Fees payable by wholesale dealers under paragraph six of this section, as above, shall be due and payable in advance, and shall be based on the applicant's sworn statement as to his gross receipts from the sale of food fish sold for human consumption in its fresh condition, using the corresponding period of the preceding year as a basis. If the applicant did no wholesale business during said corresponding period, a license shall be issued upon payment of a fee of fifty dollars and the execution of a good and satisfactory bond by the applicant to the state market director, guaranteeing the payment of such additional amount as will make the total payable on his actual business during such period equal to the license fee fixed in said paragraph six of this section. If the amount of actual sales of any such dealer for any semi-annual period, for which he has paid license fees in advance, shall be greater or less than the amount on which such license fee was based, he shall at the end of such period, be charged with and shall pay to the state such additional amount as would be due on the basis of actual sales as set forth in paragraph six hereof, if the amount of actual sales be greater than the amount on which license fee was paid; or if the actual sales be less than such amount for any such semi-annual period, he shall, at the end thereof, be credited with the difference between the license fee paid in advance and the fee that would have been due on the basis of actual sales as set forth in paragraph six hereof; but such credit shall be made only on further license fees that may be payable by any such dealer.

§ 10. **When payable. For portion of period. License for each place of business.** All licenses provided for in this act shall be paid in advance and shall terminate with December thirty-first and June thirtieth, whichever date may first follow the date of issue. A proportionate charge shall be made, according to the number of months covered, for licenses issued for a portion of the semi-annual period, but in no case shall the fee be less than one-half of the semi-annual fee, excepting those issued to wholesale dealers as hereinabove provided in section nine of this act. A separate license shall be required for each place of business from persons owning or operating more than one establishment, except that the sale of fish from a vehicle by the holder of an exclusive retail fish dealer's license shall not require a peddler's license. Persons doing both a wholesale and retail business shall be required to take out both wholesale and retail licenses unless the total receipts of any such person amount to less than ten thousand dollars per annum, and any such person having total receipts of less than ten thousand dollars per annum shall be considered a retail dealer for licenses hereunder.

§ 11. **Application.** All licenses provided for in this act shall be issued by the state fish exchange hereinafter provided for, upon written application accompanied by proper fee, together with a certificate from the local health authorities, or other satisfactory assurance to the effect that the state and local rules and regulations as to equipment and sanitary conditions have been complied with.

§ 12. **Licenses prepared by state controller.** The state controller shall prepare suitable license blanks, of the form and class designated by the state market director, which shall purport to license the holder to deal in fish. They shall be numbered consecutively, commencing with one, and shall provide spaces in which to insert the name of the person to whom issued, his business address, and the period covered. The controller shall deliver all licenses to the state market director, who shall thereupon sign and issue them in accordance with the terms of this act.

§ 13. **License transferred or assigned.** Any license may be transferred or assigned by the holder thereof upon payment of a transfer fee of five dollars; provided, notice shall be given in writing to the state fish exchange, hereinafter provided for, within ten days of such transfer or assignment. In such cases the original license shall be returned to the state fish exchange and canceled and a new license issued in lieu thereof for the unexpired portion of the original license, on payment of the fee named. If notice of transfer or assignment be not given, the license shall be invalid for any other person than the original licensee.

§ 14. **Duplicate license.** In the event of a license issued under the authority of this act being lost or accidentally destroyed, a duplicate license may be issued by the state fish exchange, hereinafter provided for, upon payment of a fee of five dollars.

§ 15. **Display of license.** Every license shall be conspicuously displayed in the place of business for which it is issued, or upon request must be shown by any licensee having no established place of business.

§ 16. **"State fish exchange" created.** To carry out the provisions of this act, there is hereby created a "state fish exchange" as a department of the state commission market, created by chapter seven hundred thirteen of the statutes of nineteen hundred fifteen, approved June 10, 1915, and of the state market commission created by the "state market commission act." The state fish exchange shall have a secretary who shall execute a bond to the people of the state of California in the sum of ten thousand dollars for the faithful performance of his duties. The state market director shall have authority, subject to the state civil service act, to appoint all employees of the state fish exchange necessary to carry out the provisions of this act and shall fix their compensation.

§ 17. **Rules and regulations.** The state market director shall establish and enforce rules and regulations necessary for the proper carrying out of the provisions of this act, and shall print and distribute the same to all persons applying therefor without charge.

§ 18. **"State fish exchange fund."** There is hereby created a fund to be known as the "state fish exchange fund." On or before the tenth day of each month, the state fish exchange shall remit to the state treasury all moneys collected by said exchange under this act, during the preceding month. All such remittances shall be placed to the credit of the state fish exchange fund and said fund shall be kept separate and apart from other state moneys. All expenses of whatsoever nature incurred by said exchange pursuant to the provisions of this act, in-

cluding the actual and necessary traveling and other expenses of its employees incurred while on business of the exchange and including the premium and charge for bonds given by surety companies for employees of the exchange when required by the state market director or by the provisions hereof, shall be paid from the said fund, after approval by the state market director, upon claims to be audited by the state board of control, except as provided in section nineteen of this act.

§ 19. **Revolving fund.** A revolving fund of five hundred dollars shall be established by the state board of control out of the state fish exchange fund for expenses of the state fish exchange, other than salaries, rent and other regular expenses, and the state market director may expend such revolving fund without first procuring the authority of the board of control, but shall file vouchers therefor monthly with the board of control.

§ 20. **Payments to state market commission fund.** A sum equaling five per cent of the gross receipts of the state fish exchange shall be paid out of the state fish exchange fund, monthly, to the credit of the state commission market fund or in the event of the repeal of the act creating the state market commission fund, approved June 10, 1915, to the state market commission fund as a commission on the business of the state fish exchange, for services rendered it by the state market director.

§ 21. **Educational and publicity campaigns.** Any surplus over and above the expenditures of the state fish exchange in the state fish exchange fund shall be expended by said exchange, under the direction of the state market director, in educational and publicity campaigns for the purposes of increasing the consumption of fresh food fish, and of enabling the public to obtain fish at reasonable prices.

§ 22. **Fish exempted.** Nothing in this act shall be construed as applying to fish bought or sold for canning, curing or packing; or as requiring the payment of license fees by canners, curers, or packers of fish; or to fish caught by other than market fishermen; or to fish sold direct by fishermen to private consumers; or to fish caught in waters within the state privately owned, or to crustaceans or mollusks except that provisions of section seven as to destruction or diversion of food fish shall be of general application.

§ 23. **License suspended or revoked.** Any license issued under the authority of this act may be suspended or revoked by the state market director in his discretion, as herein provided, or upon evidence that the holder thereof has been or is a violator of the provisions of section six of this act, authorizing the fixing of maximum prices on fish, or of the fish and game laws of the state, as evidenced by conviction in any court of competent jurisdiction; or any such license may be suspended in the discretion of the state market director for a period not to exceed thirty days for any violation of the rules and regulations provided for in section seventeen. Such suspension or revocation shall be made only after due notice of such intention has been given the offender and an opportunity given him to rebut the charge at a formal hearing by the

state market director, at which hearing the accused shall be entitled to be represented by attorney.

§ 24. **Statement of fish caught.** The state market director may require from any person engaged in marketing fish a written statement as to the amount and varieties of fish caught, or on hand, or sold by said person. Failure to furnish such statement on demand shall be good and sufficient grounds for the suspension of license issued under the provisions of this act, at the discretion of the state market director, for a period not exceeding thirty days.

§ 25. **Seal.** The state fish exchange shall have a seal bearing the inscription "state fish exchange, state of California, seal," which seal shall be affixed to all instruments, including licenses, issued under the provisions of this act.

§ 26. **Investigations.** (a) The state market director may make investigations concerning all matters relating to the provisions of this act. In connection therewith he shall have the right to inspect the books and records of any person engaged in marketing fish, and the state market director is hereby empowered to hear complaints, administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state.

(b) **Subpoenas.** The superior court in and for the county, or city and county, in which any inquiry, investigation or proceeding may be held by the state market director, shall have power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents, as required by any subpoena issued by the state market director. The court upon petition of the state market director shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the state market director. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the state market director, the court shall thereupon enter an order that said witness appear before the state market director at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

§ 27. **Penalty.** Any violation of the provisions of section seven of this act as to destruction or diversion of food fish, of section nine as to licenses required, or of section ten as to license regulations, or of section fifteen requiring licenses to be displayed or shown, shall be a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding ninety days, or by both such fine and imprisonment.

§ 28. **Suits commenced, when.** All prosecutions or suits brought under this act shall be commenced within six months from the time such offense was committed.

§ 29. **Annual report.** The state market director shall make and submit to the governor, on or before the first day of December of each year, a report containing a full and complete account of the transactions and proceedings of the state fish exchange, for the preceding fiscal year, together with such facts, suggestions and recommendations as may be deemed of value to the people of the state.

§ 30. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 31. **Repealed.** All acts and parts of acts in conflict with this act are hereby repealed.

TITLE 541a.

STEAM BOILERS.

ACT 3890.

An act to provide for the periodical inspection of steam boilers, with certain exceptions, operated in this state; requiring a permit, to be issued by the industrial accident commission, for the operation of such boilers; making it a misdemeanor to operate such boilers without such permit; and allowing an injunction against such operation without such permit where dangerous to the life or safety of employees; providing for a hearing before the industrial accident commission prior to refusal of a permit; providing for the determination of competency of inspectors making such inspections and requiring reports of inspections; and prescribing maximum fees for such inspections.

[Approved May 9, 1917. Stats. 1917, p. 297. In effect July 27, 1917.]

§ 1. **Permit required to operate steam boiler. Violation. Injunction restraining operation.** No steam boiler, unless exempted in the following section, shall be operated in the state of California unless there shall have been issued for the operation of such boiler a permit as hereinafter provided, and unless such permit shall remain in full force and effect. Such permit must be posted under glass in a conspicuous place on or near the boiler covered by it. The violation of this section by any person owning or having the custody, management or operation of such boiler without such permit shall be a misdemeanor and the operation of such boiler without such permit shall constitute a separate offense for each day that it shall be so operated; provided, that no prosecution shall be maintained where the issuance or renewal of such permit shall have been requested and shall remain unacted upon. If the oper-

ation of such boiler without such permit shall constitute a serious menace to the lives or safety of persons employed about it, the industrial accident commission, a commissioner or any safety inspector thereof, or any person affected thereby, may apply to the superior court of the county in which such boiler is situated for an injunction restraining the operation of said boiler until such condition shall be corrected or such permit secured. The certification of the industrial accident commission that no permit exists for the operation of such boiler, and the affidavit of any such inspector that its operation constitutes a menace to the life or safety of any person or persons employed about it, shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

§ 2. **Boilers exempt.** The following boilers are exempt from the provisions of this act:

(1) Boilers under the jurisdiction or inspection of the United States government, and all other boilers operated by employers not subject to the workmen's compensation, insurance and safety act of 1917, and acts amendatory thereof.

(2) Boilers of twelve horse-power or less, on which the pressure does not exceed fifteen pounds per square inch.

(3) Automobile boilers and boilers on road motor vehicles.

§ 3. **Inspection of steam boilers. Hearing. Temporary permits.** The industrial accident commission shall cause to be inspected, internally and externally, not less frequently than once in each year, every steam boiler subject to the provisions of this act. If such boiler be found upon such inspection to be in a safe condition for operation, a permit shall be issued by the commission for its operation for not longer than one year, which shall be the permit referred to in section one of this act. If any such inspection shall show such boiler to be in an unsafe or dangerous condition, the commission, or a commissioner, may issue a preliminary order requiring such repairs or alterations to be made to such boiler as may be necessary to render it safe, and may order the use of such boiler discontinued until such repairs or alterations are made or such dangerous or unsafe conditions are remedied. Unless such preliminary order be complied with, a hearing before the commission, a commissioner or referee of such commission, shall be allowed, upon request, at which the owner, operator or other person in charge of said boiler shall have opportunity to appear and show cause why he should not comply with said order. If it shall thereafter appear to the commission that such boiler is unsafe and that the requirements contained in such preliminary order should be complied with, or that other things should be done to make said boiler safe, the commission may order or confirm the withholding of the permit to operate said boiler, and may make such requirements as it deems proper for the repair or alteration of said boiler, or the correction of such dangerous and unsafe conditions. Such order may thereafter be reheard by the commission, or reviewed by the courts, in the manner specified by the workmen's compensation, insurance and safety act of 1917 for safety orders, and not otherwise. It may also, in its discretion, issue and renew temporary permits for

not to exceed thirty days each, pending the making of replacements or repairs. Nothing contained in this act shall be construed to limit the authority of the commission to prescribe or enforce general or special safety orders.

§ 4. **Who may inspect. Certificate of competency.** The commission may cause the inspection herein provided for to be made either by its safety inspectors or by any qualified boiler inspector employed by any county, city and county, city, or insurance company, or by any boiler inspector employed by any person or corporation for the purpose of testing his own boilers only; provided, that such persons making inspections other than such safety inspectors shall first secure from the said industrial accident commission a certificate of competency to make such inspections. The industrial accident commission is hereby vested with full power and authority to determine the competency of any applicants for such certificate, either by examination or by other satisfactory proof of qualifications. The commission may rescind at any time, upon good cause being shown therefor, any certificate of competency issued by it to a boiler inspector, or may at any time, upon good cause being shown therefor, and after notice and an opportunity to be heard, revoke any permit to operate such steam boiler.

§ 5. **Fees.** The industrial accident commission shall fix and collect fees for the inspection of steam boilers covered by this act, not exceeding two dollars and fifty cents for each external inspection and seven dollars and fifty cents for each internal inspection per annum. Such fees must be paid before the issuance of any permit to operate the said boiler. No fee shall be charged by the industrial accident commission where an inspection, as herein provided, has been made by an inspector holding a certificate of competency from said commission and employed by any county, city and county, city, insurance company, or by any person or corporation for the purpose of testing his own boilers only. All fees collected by the commission under this act shall be paid into the accident prevention fund.

§ 6. **Report of inspection.** Every inspector so certified shall forward to the commission on the forms provided by it, within twenty-one days after such inspection is made, a report of such inspection, in default of which the certificate of competency may be canceled.

TITLE 547.

STREETS.

ACT 3932.

An act to provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvements within municipalities, and also for the payment of such bonds.

[Approved February 27, 1893. Stats. 1893, p. 33.]

Amended 1899, p. 40; 1911, p. 1201; 1913, pp. 351, 845; 1917, p. 160.

The amendment of 1917 follows:

§ 4. **Street superintendent to certify unpaid assessments. Sufficient description of land. Street improvement bonds.** After the full expira-

tion of thirty days from the date of the warrant, or if an appeal be taken to the city council, or an extension of time be granted the contractor in which to make his return as provided in section ten of said street work act, then five days after the final decision of said city council, or the expiration of the extension, or after the full expiration of thirty days from the recording of a reassessment in the event that such be made, and after the street superintendent shall have recorded the return, and in the event that a reassessment is ordered, after all previous payments have been credited on the reassessment, the street superintendent shall make and certify to the city treasurer a complete list of all assessments unpaid, which amount to twenty-five dollars or over upon any assessment or diagram number; and said treasurer shall thereupon make out, sign and issue to the contractor, or his assigns, payee of the warrant and assessment, a separate bond, representing upon each lot or parcel of land upon said list the total amount of the assessments or reassessments as the case may be, against the same as thereon shown. And if said lot or parcel of land is described upon said assessment and diagram by its number or block, or both, upon the official map of said municipality, or upon any map on file in the office of the county recorder of the county in which said municipality is situated, then it shall be in said bond a sufficient description of said lot or parcel of land to designate it by said number or block, or both, as it appears on said official or recorded map. Said bond shall be substantially in the following form:

STREET IMPROVEMENT BOND.

Series (designating it) in the city (or other form of municipality) of (naming it).

$—— No. ——.

Under and by virtue of an act of the legislature of the state of California (title of said act), I, out of the fund for the above designated street improvement bonds, series ——, will pay to ——, or order, the sum of —— dollars, ($——), with interest at the rate of —— per cent per annum, all as hereinafter specified, and at the office of the treasurer of the —— of ——, state of California.

This bond is issued to represent the cost of certain street work upon —— in the —— of——, as the same is more fully described in assessment No. ——, issued by the street superintendent of said ——, after acceptance of said work, and recorded in his office (or if there has been a reassessment then the reference shall be to such reassessment). Its amount is the amount assessed in said assessment (or reasessment if such be made) against the lot or parcel of land numbered therein, and in the diagram attached thereto, as No. ——, and which now remains unpaid, but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein, and in said recorded assessment with its diagram, to wit:

That certain lot or parcel of land in said —— of —— county of —— and state of California, described as follows:

This bond is payable exclusively from said fund and neither the municipality nor any officer thereof is to be holden for payment otherwise for its principal or interest. The term of this bond is —— years

from the second day of January next succeeding its date, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year after its date an even annual proportion of its whole amount is due and payable upon presentation of the coupon therefor until the whole is paid (or if said bonds are to extend over a period exceeding ten years from their date, insert in place of the last statement the following: But on the second day of January of each of the last ten years of the term of this bond an even one-tenth part of the whole amount of the principal of said bond shall be due and payable upon presentation of the coupon therefor), with all accrued interest at the rate of —— per centum per annum. The interest is payable semi-annually, to wit: on the second days of January and July in each year hereafter, upon presentation of the coupons therefor, the first of which is for the interest from date to the next second day of ——, and thereafter the interest coupons are for semi-annual interest. Should default be made in the annual payment upon the principal, or in any payment of interest, by the owner of said lot or parcel of land, or anyone in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law.

At said —— of ——, this —— day of ——, in the year one thousand nine hundred ——.

—— ——,

City treasurer of the —— of ——.

In case the amount of the unpaid assessment or reassessment upon any lot or parcel of land shall be less than twenty-five dollars, then the same shall be collected as is provided in said street work act. If any person, or his authorized agent, shall at any time before the issuance of the bond for said assessment or reassessment upon his lot or parcel of land present to the city treasurer his affidavit made before a competent officer, that he is the owner of a lot or parcel of land in said list, accompanied by the certificate of a searcher of records that he is such owner of record, and shall with such affidavit and certificate notify said treasurer in writing that he desires no bond to be issued for the assessment upon said lot or parcel of land, then no such bond shall be issued therefor and the payee of the warrant, or his assigns, shall retain his right for enforcing collection of said assessment or reassessment as if said lot or parcel of land had not been so listed by the street superintendent. The bonds so issued by said treasurer shall be payable to the party to whom they issue, or order, and shall be serial bonds, as is hereinbefore described, and shall bear interest at the rate specified in the resolution of intention to do said work. They shall have annual coupons attached thereto, payable in annual order on the second day of January in each year after the date of the bonds until all are paid, or if the term of said bonds be more than ten years, then said coupons shall be payable on the second day of January of each of the last ten years of the term of the bonds; and each coupon shall be for an even annual proportion of the principal of the bond. They shall have semi-annual interest coupons thereto attached, the first of which shall be payable upon the second day of January or July, as the case may be.

next after its date, and shall be for the interest accrued at that time, and the rest of which shall be for the semi-annual interest accruing from the second day of January or July, as the case may be. The owner of, or any person interested in, any lot or parcel of land upon which a bond has been issued, under the terms of this act, may at any time pay off such bond and discharge his land from the lien of the assessment, by paying to the city treasurer for the holder of such bond the amount then unpaid on the principal sum thereof, and all interest thereon which has accrued and is unpaid, together with the semi-annual installment of interest which will next become due thereafter, and in addition thereto, interest for six months at the rate specified in the bond upon the unpaid amount of the principal. The treasurer shall thereupon make an entry upon his bond register that such bond has been paid in full. When all the coupons of principal and interest are paid or the bond is surrendered or satisfied, the city treasurer shall report the fact to the street superintendent, who shall forthwith indorse the same on the margin of the record of the assessment to the credit of which the same is paid. The assessment upon which a bond is issued shall be a first lien upon the property affected thereby until the bond issued for the payment thereof and the accrued interest thereon shall be fully paid. Said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings leading up thereto under said street work act and under this act, and of the validity of said lien. [Amendment approved April 24, 1917; Stats. 1917, p. 160.]

ACT 3932a.

An act to provide for the issuance of improvement bonds to represent and be secured by certain assessments made for the cost of certain work and improvements made in and upon streets, avenues, lanes, alleys, courts, places and sidewalks within municipalities and upon property and rights of way owned by municipalities, to provide for the collection of such assessments, the sale of the property affected thereby and for the payment of the bonds so issued.

[Approved June 11, 1915. Stats. 1915, p. 1441.]

Amended 1917; Stats. 1917, p. 209.

§ 3. Bonds payable when and where. Interest. Redemption fund. Register. Said bonds shall be issued in series and an even annual proportion of the aggregate principal sum thereof shall be payable on the second day of July every year succeeding the first nine months after their date, until the whole is paid, and the said bonds shall bear interest at a rate of not to exceed eight per cent per annum from the date of filing with the clerk of the street superintendent's list of unpaid assessments, on all sums unpaid, until the whole of said principal sum and interest are paid, which interest shall be payable semi-annually by coupon, on the second days of January and July, respectively of each year; provided, that the first payment of interest shall not come due till six months before the maturity of the first series of bonds. The final series or installment of said bonds shall mature and be payable on a date which shall not exceed fourteen years from the second day

of July next succeeding nine months from their date. Said bonds and interest shall be paid at the office of the city treasurer of said municipality who shall keep a redemption fund designated by the name of said bonds, into which he shall place all sums received by him from the collection of the assessments made for the payment of the cost of the work or improvements upon which the said bonds are issued, and of the interest and penalties thereon and from which fund he shall disburse and pay the said bonds and the interest due thereon upon presentation of the proper bonds and coupons; and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said city treasurer shall keep a register in his office which shall show the series, number, date, amount, rate of interest, and last known holder of each bond, and the number and amount of each coupon of interest paid by him, and shall cancel and file each bond and coupon so paid. [Amendment approved May 4, 1917; Stats. 1917, p. 209.]

§ 4. **Resolution of intention.** When said city council shall determine that serial bonds shall be issued hereunder to represent the expense of any proposed work or improvement under said street work act it shall so declare in the resolution of intention to do said work and shall specify the rate of interest which they shall bear. The like description of said bonds shall be inserted in the resolution ordering the work, in the resolution of award and in all notices of said proceedings required by said act to be either posted or published, and also a like notice shall be entered in any warrant issued by the superintendent of streets to the contractor. Said bond declaration may be substantially in the following form: "Notice is hereby given that serial bonds to represent unpaid assessments, and bear interest at the rate of —— per cent per annum, will be issued hereunder in the manner provided by the improvement bond act of 1915, the last installment of which bonds shall mature —— years from the second day of July next succeeding nine months from their date." [Amendment approved May 4, 1917; Stats. 1917, p. 210.]

§ 5. **Street superintendent to file list of unpaid assessments. Notice of hearing. Objections. Advertisement for bids. Award to highest bidder.** After the full expiration of thirty (30) days from the date of the warrant, or if an appeal be taken to the city council as provided in said street work act, then five (5) days after the final decision of said council, and after the street superintendent shall have recorded the return, the street superintendent shall make and file with the clerk of the city council a complete list of all assessments unpaid, upon any assessment or diagram number. Said clerk shall then give notice of the filing of said list and of a time, to be therein fixed by said clerk, when interested persons may appear before the city council and show cause why bonds should not be issued upon the security of the unpaid assessments shown on said list, which time shall be that of some regular meeting of said council. Such notice shall be posted for not less than five days on or near the council chamber door and be published twice in a newspaper published in such city, if there be any, the first of which publications shall be not less than five days before the time fixed for such hearing. Reference shall therein be made to the resolution of

intention and the date of its passage for a description of the work therein mentioned and no other description thereof shall be necessary. The council shall hear any objection presented and shall pass upon the same and shall thereupon determine the assessments which are unpaid and the aggregate amount of same. It may adjourn the hearing from time to time. Its decision shall be final. The city council shall then prescribe the denominations of such bonds, which shall be in convenient amounts not necessarily equal, and shall provide for issuance of same in annual series. Said bonds must be sold at a time to be fixed by the council, and to the highest bidder therefor, but for not less than par and accrued interest, and the proceeds of the sale shall be deposited in the city treasury. Before selling said bonds, or any part thereof, the city council must advertise for bids therefor, by publication once a week for at least two weeks in some newspaper of general circulation published in the city, or if there is no such newspaper published in the city then by notice of sale, posted for at least two weeks on or near the council chamber door of said city. If satisfactory bids are received the bonds offered for sale must be awarded to the highest bidder. If no such bids are received or the council determines that the bids received are not satisfactory as to price or responsibility of the bidders the council may reject all bids received, if any, and either readvertise or deliver said bonds to the contractor in satisfaction of the sum due him upon his assessment and warrant. From the proceeds of any sale of said bonds, there shall be paid to such contractor the balance due him upon his assessment and warrant including interest upon the principal amount thereof at the rate specified in said bond declaration computed from the date of filing of said unpaid assessment list, and the surplus of such proceeds shall be credited to the redemption fund for the payment of such bonds. The cost of such publications shall be paid from such redemption fund. [Amendment approved May 4, 1917; Stats. 1917, p. 211.]

§ 6. **Form of bond.** Said bonds shall each be substantially in the following form:

IMPROVEMENT BOND.

City (or other form of municipality) of (naming it).

$—— No. ——

Under and by virtue of the act of the legislature of the state of California, entitled (title of this act) the —— of —— (a municipal corporation) will on the second day of July, 19—, out of the redemption fund for the payment of the bonds issued upon the assessments made for the work upon and improvements on certain streets (or on —— street, or in improvement district No. ——, or on certain rights of way owned by, or by other suitable description), more fully described in the certain resolution of intention passed by the city council (or other board) of said municipality on the —— day of ——, 19—, pay to bearer, the sum of —— dollars ($——) with interest thereon from the —— day of ——, 19— at the rate of —— per cent per annum, all as is hereinafter specified, and at the office of the treasurer of said municipality.

This bond is one of several annual series of bonds of like date, tenor and effect, but differing in amounts and maturities, issued by said

municipality under said act for the purpose of providing means for paying for the work and improvements described in said resolution of intention, and is secured by the moneys in said redemption fund and by the unpaid assessments made for the payment of said work, and, including principal and interest, is payable exclusively out of said fund.

The interest is payable semi-annually, to wit: On the second days of January and July in each year hereafter, upon presentation of the proper coupons therefor; provided, that the first of said coupons is for the interest to the second day of January, 19—, and thereafter the interest coupons are for the semi-annual interest.

This bond will continue to bear interest after maturity at the rate above stated; provided, it is presented at maturity and payment thereof is refused upon the sole ground that there is not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity interest thereon will run until maturity.

This bond may be redeemed and paid in advance of maturity upon the second day of July in any year by giving the notice provided in said act.

In witness whereof, said —— of —— has caused this bond to be signed by the treasurer of said —— and by its clerk and has caused its clerk to affix thereto its corporate seal all on the —— day of ——, 19—.

—— ——,
Treasurer.

—— ——,
(Seal) Clerk.

[Amendment approved May 4, 1917; Stats. 1917, p. 212.]

§ 7. The coupons affixed to said bonds shall be signed by the treasurer, and the city council may by order provided in its discretion for the use upon said coupons of an engraved, printed or lithographed signature of the treasurer in place of a signature by hand. The bonds shall have semi-annual coupons attached thereto, the first of which shall be payable upon the second day of January next before the maturity of the first series of bonds coming due, and shall be for the interest accrued at that time. [Amendment approved May 4, 1917; Stats. 1917, p. 213.]

§ 12. Assessments payable in installments. Sale of land on default of payment. Purchase by city. State to purchase when. Such unpaid assessments shall be payable in annual series, corresponding in number to the number of series of bonds issued and an even annual proportion of each assessment shall be payable in each year preceding the date of maturity of each of the several series of bonds so issued. Such annual proportion of each assessment coming due in any year, together with the annual interest on such assessment, shall in turn be payable in annual or semi-annual installments according as the general municipal taxes of such city on real property are payable in annual or semi-annual installments, and such installments and said annual interest shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties

and interest after delinquency as to the general municipal taxes on real property of said city. Upon default in payment, the lands securing such installments and assessments shall be sold in the same manner in which real property in such city is sold, for the nonpayment of general municipal taxes, and be subject to redemption in the same manner as such real property is redeemed from such delinquent sale, and upon failure of redemption shall in like manner pass to the purchaser. The city may be the purchaser at any delinquent sale in like manner in which it becomes or may become the purchaser of property sold for nonpayment of the general municipal property tax, and in the event of its so becoming the purchaser shall pay and transfer into said redemption fund the amount of the delinquent assessment and of the delinquent interest thereon upon which said sale is made. In cases where the municipal property tax is collected by county or city and county officials and sales for nonpayment of such taxes are made to the state, the state shall be the purchaser at any such sale hereunder, but shall hold the title acquired at such sale upon behalf of the city and shall account to the city for any moneys received upon redemption or from the sale of such property, the city for the purposes of this act being deemed the real purchaser. In other cases where under the law, the city is not always the purchaser at sales for delinquent municipal taxes, the city shall become such purchaser at any delinquent sale hereunder where there is no other purchaser. In the event of there being no available funds in the treasury with which to make such payment, the tax collector shall delay the entry of the certificate of sale until such funds are available, making demand in the meantime upon the city council that a suitable amount be included in the next tax levy for the purpose of providing funds with which to make such payment; provided, however, that the period of redemption from such tax sale shall not be extended thereby nor the rights or privileges of the property owner be thereby in any wise affected. In the event of such purchase being made by the city and of any succeeding installment of such assessment or of such interest not being paid in any future year, the property shall not be sold unless there has previously been a redemption from such sale or unless under the law it is being then sold for delinquent taxes. The city shall nevertheless from time to time when due pay and transfer into said redemption fund the amount of any such future delinquent assessment and interest pending redemption, and no redemption shall be made until any such subsequent payments, with interest and penalties, shall also be paid. [Amendment approved May 4, 1917; Stats. 1917, p. 213.]

ACT 3937c.

An act to provide for the establishment and change of grade of public streets, lands, alleys, courts, places and rights of ways in municipalities, and providing for the improvement thereof, in cases where any damage to private property would result from such improvement, and for the assessment of the costs, damages and expenses thereof upon the property benefited thereby, and to provide a system of local improvement bonds to represent the assessments for the costs, damages

and expenses of such improvement, and for the payment and effect of such bonds.

[Approved June 16, 1913. Stats. 1913, p. 954.]

Amended 1915, p. 1217; 1917, p. 970.

The amendment of 1917 follows:

The title of the act was amended to read as follows:

An act to provide for the establishment and change of grade of public streets, lanes, alleys, courts, places and rights of way, and of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways in municipalities and providing for the construction or improvement thereof, in cases where any damage to private property would result from such improvement, and for the assessment of the costs, damages and expenses thereof upon the property benefited thereby, and to provide a system of local improvement bonds to represent the assessments for the costs, damages and expenses of such improvement, and for the payment and effect of such bonds.

The balance of the amendment is as follows:

§ 1. City may establish and change street grade, etc. Official grade already established. Whenever the public interest or convenience may require, the legislative body of any city is hereby empowered to establish or change or modify the grade of any public street, avenue, lane, alley, court, place or right of way in said city, or any portion thereof, and also the grade of the roadway of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, in, on, under, over or through any public street, avenue, lane, alley, court, place or other land of the city, or in, on, under, over or through any land in which and where the city may then have an easement or right of way therefor; and in any case when or where, in the opinion of said legislative body, any damage to private property would result from the improvement thereof, to order the whole or any part, either in length or width, of such public street, avenue, lane, alley, court, place or right of way or other land of the city, in which and where the city may then have an easement or right of way therefor, to be improved to conform to such official grade by grading or regrading, paving or repaving, planking or replanking, macadamizing or remacadamizing, piling or repiling, capping or recapping, graveling or regraveling, oiling or reoiling, sewering or resewering, sidewalking or residewalking, curbing or recurbing, guttering or reguttering, or by the construction, reconstruction or repair of manholes, culverts, cesspools, conduits, crosswalks, steps, parking or parkways. or by the construction, reconstruction or repair of poles, posts, wires, conduits, lamps and other appurtenances for the lighting thereof; and also in any case where, in the opinion of said legislative body, any damage to private property would result from the construction, reconstruction or repair thereof, to order the construction, reconstruction or repair of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, together with approaches thereto, and all appurtenances therefor, in, on, under, over or through any public street, avenue, lane, alley, court,

place or other land of the city, or in, on, under, over or through any land in which and where the city has an easement or right of way therefor, to the grade established for the roadway of such tunnel, subway, viaduct, bridge or independent subterranean way, and order the construction, reconstruction or repair of stormwater ditches or tunnels, or breakwaters, levees or walls of rock, or other materials, culverts, manholes, cesspools, conduits, subways, retaining walls, sewers, ditches, drains and channels for sanitary and drainage purposes, or either or both thereof, with necessary outlets, catch-basins, flush-tanks, septic tanks, connecting sewers and other appurtenances, to protect the streets, avenues, lanes, alleys, courts, places or rights of way, or any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways which may be constructed as hereinabove provided, from overflow or injury by water or otherwise; and to order the doing of any other work which shall be necessary to improve the whole, or any portion of such street, avenue, lane, alley, court, place or other land of the city, or any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways which may have been constructed, or which shall be constructed, under the proceedings provided in this act. This act shall apply equally in cases where the official grade of any public street, avenue, lane, alley, court, place or right of way, or of the roadway of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, in, on, under, over or through any public street, avenue, lane, alley, court, place or other land of the city, or in, on, under, over or through any land in which and where the city may then have an easement or right of way therefor has previously been established or changed, and where such grade is established, modified or changed in whole or in part by the same proceedings by which the improvement is ordered, if in the opinion of the legislative body of the city, damage will result to private property from the making of the improvement contemplated by the proceedings. [Amendment approved May 26, 1917; Stats. 1917, p. 971.]

§ 2. **Resolution of intention. Boundaries of district.** Before ordering any establishment, change, or modification of grade, or any improvement described in section one hereof, the said legislative body shall pass an ordinance or resolution, declaring its intention so to do, and that, in its opinion, damage to private property would result from such improvement, designating the proposed grade, describing the proposed improvement, fixing the time and place for the hearing of protests in relation thereto by said legislative body, which shall be not less than thirty days from the date of the passage of said ordinance or resolution of intention, and specifying the exterior boundaries of the district of land to be benefited by said improvement, and to be specially assessed to pay the costs and expenses thereof, and the damages caused by said improvement, which shall be known as the assessment district. Such legislative body may include in one improvement, under one ordinance or resolution of intention and order and under one contract, the grade of all or any portion of one or more streets, avenues, lanes, alleys, courts, places, rights of way or other land of the city, or land in which and where the city

has an easement or right of way, established, changed, or modified, and the grade of the roadway of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, in, on, under, over or through any portion of any of said streets, avenues, lanes, alleys, courts, places, rights of way or other land of the city, or land in which and where the city has an easement or right of way, established, changed or modified, and the construction of any one or more or all of the different kinds of work enumerated in section one hereof, upon the same or any part or portion thereof, and may exclude therefrom any of such work already done. [Amendment approved May 26, 1917; Stats. 1917, p. 972.]

§ 3. Ordinance posted and published. Publication of notice. Notice mailed property owner. Form of notice. "Unknown owners." Clerk's affidavit. Said ordinance or resolution of intention shall be conspicuously posted for two days on or near the chamber door of said legislative body and published by two insertions in a daily or weekly newspaper published and circulated in said city, and designated by said legislative body for the purpose. If no such newspaper be so published and circulated in said city, such posting of said ordinance or resolution of intention shall be sufficient. The superintendent of streets shall thereupon cause to be conspicuously posted along all streets and parts of streets or other public places or rights of way, or along any land of the city or land in, on, under or over which the city has an easement or right of way where any work is to be done or improvement made, or in, on, under or over which any tunnel, subway, viaduct, bridge or independent subterranean way is to be constructed, at not more than three hundred feet apart, notices (not less than three in all) of the passage of such ordinance or resolution. Said notices shall be headed "Notice of street work" in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said ordinance or resolution of intention, and the time and place fixed for the hearing of protests, and notify all persons interested to appear at said time and place with their objections to said improvement, if any they have, and briefly describe the proposed improvement in general terms, and refer to the ordinance or resolution of intention for further particulars. He shall also cause a notice of similar substance to be published by two insertions in a daily newspaper published and circulated in said city, or, if there be no such daily newspaper, then by two successive insertions in a weekly or semi-weekly newspaper so published and circulated. If no such newspaper be so published and circulated in said city such notice shall also be posted on or near the chamber door of the legislative body of said city, and in two other public places in said city. Such posting and publication shall be completed at least ten days before the day set for the hearing of protests. The city clerk shall immediately upon the passage of said ordinance or resolution of intention mail, postage prepaid, to each property owner in the district to be assessed to pay the costs and expenses of the improvement, at his last known address as the same appears on the tax-rolls of said city, or, where no address so appears, to the general delivery, a postal card, containing a notice, which shall be substantially in the following form (filling blanks):

You are hereby notified that on the —— day of ——, 19—, the legislative body of the city of ——, California, by virtue of the street improvement act of 1913, passed an ordinance (resolution) of intention numbered ——, for the improvement of —— street between —— and —— street. The time for filing protests will expire on the —— day of ——, 19—, and protests will be heard on the —— day of ——, 19—, at the hour of —— in the council chamber of said city.

Property belonging to you is within the assessment district for said improvement, and will be assessed therefor. For further information you are referred to said ordinance, and to the maps, profiles, plans and specifications on file in the office of the city engineer (or city clerk).

——, ——,

City Clerk.

If any lots or parcels of land in the assessment district be assessed to "unknown owners" on the tax-rolls of said city, no such postal cards need be mailed to the owners thereof.

The city clerk shall, upon the completion of the mailing of said postal cards, file in the office of the superintendent of streets an affidavit setting forth the time and manner of his compliance with this requirement; provided, that the failure of the city clerk to mail said cards, or the failure of the property owners, or any of them, to receive the same, or the failure of the superintendent of streets to post the said notices of street work, or to post proper notices thereof, shall in no wise affect the validity of the proceedings or prevent the legislative body from acquiring jurisdiction to order the said improvement; provided, however, that the city council may require affidavits to be filed showing the posting and mailing of said notices before it adopts the ordinance or resolution ordering the improvement. [Amendment approved May 26, 1917; Stats. 1917, p. 973.]

§ 5. **Jurisdiction to order improvements.** If no protests are filed at or before the time fixed for the hearing thereof by the ordinance or resolution of intention, or if protests are filed, and after hearing are denied, as above provided, the legislative body shall have jurisdiction to order the establishment, change or modification of grade or other improvement described in the ordinance or resolution of intention. Having acquired such jurisdiction, it shall by ordinance or resolution order the establishment, change or modification of grade or such other improvement to be made, and refer the same to the commission hereinafter provided for, to estimate the damages caused thereby, and report an assessment of said damages, and of all costs and expenses of the improvement, on the property benefited thereby. [Amendment approved May 26, 1917; Stats. 1917, p. 975.]

§ 46. **Definitions.** The following words and phrases shall, where used in this act, have the following meaning:

1. **"Improvement."** The term "improvement" includes all work, construction, reconstruction and improvements mentioned in section one of this act.

2. **"City."** The term "city" includes every incorporated city, city and county, or other corporation organized for municipal purposes.

3. **"City treasurer."** The term "city treasurer" includes any officer who has charge and makes payment of the city funds.

4. **"Superintendent of streets."** The term "superintendent of streets" includes any officer or board whose duty it is by law to have the care or charge of streets or the improvement thereof in any city. In any city where there is no superintendent of streets, or such board, the legislative body is hereby authorized to designate some other officer of the city, or other person, to perform the duties imposed by this act on the superintendent of streets, and all of the provisions hereof applicable to the superintendent of streets shall apply to the officer so designated.

5. **"Owner."** The term "owner" or the term "any person interested" is deemed to be the person owning the fee, or the person in whom on the day any protest is filed, the legal title to real property appears by deeds duly recorded in the county recorder's office of the county in which said city is situate; or any person in possession of real property as the executor, administrator, trustee under an express trust, guardian or other legal representative of the owner, or any person in possession of real property under written contract of purchase, duly recorded.

§ 6. **"Incidental expenses."** The term "incidental expenses" shall be held to mean and include all the necessary expenses and disbursements of the commission, the cost of making the assessment, and all expenses necessarily incurred by the city in connection with the proposed improvement for maps, diagrams, plans, surveys, the mailing of any notices, and other matters incident thereto.

7. **"Delinquency."** The term "delinquency" as herein used shall mean delinquency in the payment of an assessment made under the provisions of this act, and the expression "time of delinquency" shall mean the time in this act fixed when assessments become delinquent. [Amendment approved May 26, 1917; Stats. 1917, p. 975.]

TITLE 556.

SURVEYOR-GENERAL.

ACT 3988.

An act providing for the regulation of land titles, and giving the surveyor-general certain powers in respect thereto.

[Approved June 1, 1917. Stats. 1917, p. 1668.]

§ 1. **Surveyor-general to investigate land titles.** The surveyor-general, or a deputy of his department, may not more often than once in two years, visit the various counties of the state and inspect and investigate conditions in respect to land titles. He shall annually report to the governor and shall, prior to each regular session, report to the legislature, making such recommendations as he shall deem proper and necessary. He is hereby authorized to consult with and to advise county registrars of land titles and to make such suggestions and recommendations to the county registrars of land titles as he may deem desirable.

§ 2. **Uniform blank forms.** The surveyor-general or deputy may prepare and recommend for the use of the county registrars of land titles

and applicants for registration of land titles and of the courts hearing such applications, uniform blank forms to be used throughout the state.

TITLE 563.

TAXATION.

ACT 4035b.

An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder or under an act hereby repealed, to be known as the "Inheritance Tax Act"; to repeal an act entitled "An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of liens, arising hereunder; to repeal an act entitled 'An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers; to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of liens arising hereunder'; to repeal an act entitled 'An act to establish a tax on collateral inheritances, bequests, and devises, to provide for the collection and to direct the disposition of its proceeds,' approved March 23, 1893, and all amendments thereto, and to repeal all acts and parts of acts in conflict with this act, approved March 20, 1905, and all amendments thereto, and all acts and parts of acts in conflict with this act," approved April 7, 1911. [Approved June 16, 1913. Stats. 1913, p. 1066.]

Amended 1915, pp. 418, 435.

Repealed May 23, 1917; Stats. 1917, p. 880. See next act.

ACT 4035c.

An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder, or under an act hereby repealed, to be known as the "inheritance tax act"; and to repeal chapter five hundred ninety-five of the laws of the session of the legislature of California of 1913, approved June 16, 1913, known as the "inheritance tax act," and all amendments thereto, and to repeal all acts and parts of acts in conflict with this act.

[Approved May 23, 1917. Stats. 1917, p. 880. In effect July 27, 1917.]

§ 1. **Title.** (1) This act shall be known as the "inheritance tax act."

(2) **"Estate" and "property." Wife's share of community property exempted.** The words "estate" and "property" as used in this act shall

be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor, or donor passing or transferred to individual legatees, devisees, heir, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state; provided, that for the purpose of this act the one-half of the community property which goes to the surviving wife on the death of the husband, under the provisions of section one thousand four hundred two of the Civil Code, shall not be deemed to pass to her as heir to her husband, but shall, for the purpose of this act, be deemed to go, pass, or be transferred to her for valuable and adequate consideration and her said one-half of the community shall not be subject to the provisions of this act; provided, further, that in case of a transfer of community property from the husband to the wife, within the meaning of subdivisions (3) or (5) of section two of this act, one-half of the community property so transferred shall not be subject to the provisions of this act; and provided, further, that the presumption that property acquired by either husband or wife after marriage is community property, shall not obtain for the purpose of this act as against any claim by the state for the tax hereby imposed; but the burden of proving such property to be community property shall rest upon the person claiming the same to be community property.

(3) **"Transfer."** The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargin, sale, gift, or appointment in the manner herein described.

(4) **"Decedent."** The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor, or donor.

(5) **"County treasurer" and "inheritance tax appraiser."** The words "county treasurer" and "inheritance tax appraiser," as used in this act, shall be taken to mean the treasurer or the inheritance tax appraiser of the county of the superior court having jurisdiction as provided in section fifteen of this act.

§ 2. **Tax on transfer of property, when.** A tax shall be and is hereby imposed upon the transfer of any property, real, personal, or mixed, or of any interest therein or income therefrom in trust or otherwise, to persons, institutions or corporations, not hereinafter exempted, to be paid to the treasurer of the proper county, as hereinafter directed, for the use of the state, said taxes to be upon the market value of such property at the rates hereinafter prescribed and only upon the excess over the exemptions hereinafter granted, in the following cases:

(1) When the transfer is by will or by the intestate or homestead laws of this state, from any person dying seized or possessed of the property while a resident of the state, or by any order of court setting apart property pursuant to article one, chapter five, title eleven, part three of the Code of Civil Procedure.

(2) **Tax on transfer of property, when.** When the transfer is by will or intestate laws of property within this state and the decedent was a nonresident of the state at the time of his death, or by any order of

court setting apart property pursuant to article one, chapter five, title eleven, part three of the Code of Civil Procedure.

(3) When the transfer is of property made by a resident, or by a nonresident when such nonresident's property is within this state, by deed, grant, bargain, sale, assignment or gift, made without valuable and adequate consideration (i. e., a consideration equal in money or in money's worth to the full value of the property transferred):

(a) **Transfer in contemplation of death.** In contemplation of the death of the grantor, vendor, assignor or donor, or,

(b) Intended to take effect in possession or enjoyment at or after such death.

When such person, institution or corporation becomes beneficially entitled in possession or expectancy to any property or the income therefrom, by any such transfer, whether made before or after the passage of this act.

(4) The words "contemplation of death," as used in this act, shall be taken to include that expectancy of death which actuates the mind of a person on the execution of his will, and in nowise shall said words be limited and restricted to that expectancy of death which actuates the mind of a person making a gift causa mortis; and it is hereby declared to be the intent and purpose of this act to tax any and all transfers which are made in lieu of or to avoid the passing of property transferred by testate or intestate laws.

(5) **Property held in joint names.** Whenever property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons, the right of the surviving joint tenant or joint tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this act in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed to the surviving joint tenant or joint tenants, person or persons, by such deceased joint tenant or joint depositor by will, excepting therefrom such part thereof as may be proved by the surviving joint tenant or joint tenants to have originally belonged to him or them and never to have belonged to the decedent.

(6) **Appointment deemed transfer.** Whenever any person, trustee or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will; and whenever any person, trustee or corporation possessing such power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though

the persons, trustees or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

(7) **Bequest exceeding reasonable compensation.** Whenever a decedent appoints or names one or more executors or trustees, and makes a bequest or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees, and said bequest, devise, or residuary legacies exceeds what would be a reasonable compensation for their services, such excess over and above the exemptions herein provided for shall be liable to said tax; and the superior court in which the probate proceedings are pending shall fix the compensation.

(8) **Property transferred subject to charge determined by death of person.** Where any property shall, after the passage of this act, be transferred subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person or corporation upon the extinction or determination of such charge, estate or interest, shall be deemed a transfer of property taxable under the provisions of this act in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interests is derived.

(9) **Aggregate value of more than one transfer.** When more than one transfer within the meaning of any of the preceding subdivisions of this section has been made, either before or after the passage of this act, by a decedent to one person, the tax shall be imposed upon the aggregate market value of all of the property so transferred to such person in the same manner and to the same extent as if all of the property so transferred were actually transferred by one transfer.

(10) **No deductions of United States tax.** In determining the market value of the property transferred, no deduction shall be made for any inheritance tax or estate tax paid to the government of the United States.

§ 3. **Lien. Suit within five years.** Such taxes shall be and remain a lien upon the property passed or transferred until paid; provided, that said lien shall be limited to the property chargeable therewith, and the person to whom the property passes or is transferred, and all administrators, executors and trustees of every estate so transferred or passed, shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed. The provisions of the Code of Civil Procedure relative to the limitation of time of enforcing a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any tax or penalty prescribed by this article, and this section shall be construed as having been in effect as of date of the original enactment of the inheritance tax law; provided, that unless sued for within five years after they are due and legally demandable, such taxes, or any taxes accruing under

any act herein repealed, shall cease to be a lien as against any bona fide purchaser of said property; and, provided, that no such lien shall cease within two years from the date of the passage of this act.

§ 4. Tax when property value not over twenty-five thousand dollars. When the property or any beneficial interest therein so passed or transferred exceeds in value the exemption hereinafter specified and shall not exceed in value twenty-five thousand dollars, the tax hereby imposed shall be:

(1) Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal ancestor, lineal issue of the decedent or any child adopted as such in conformity with the laws of this state, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent (provided, however, such relationship began at or before the child's fifteenth birthday, and was continuous for said ten years thereafter), or any lineal issue of such adopted or mutually acknowledged child, at the rate of one per centum of the clear value of such interest in such property.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendent of a brother or sister of a decedent, a wife or widow of a son, or the husband of a daughter of the decedent at the rate of three per centum of the clear value of such interest in such property.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the decedent, at the rate of four per centum of the clear value of such interest in such property.

(4) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of five per centum of the clear value of such interest in such property.

§ 5. Tax when property value exceeds twenty-five thousand dollars. (1) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision one of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, two per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, four per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, seven per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, ten per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars and up to one million dollars, twelve per centum of such excess.

(f) Upon all in excess of one million dollars, fifteen per centum of such excess.

(2) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision two of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, six per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, nine per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, twelve per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, fifteen per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars and up to one million dollars, twenty per centum of such excess.

(f) Upon all in excess of one million dollars, twenty-five per centum of such excess.

(3) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision three of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, eight per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, ten per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, fifteen per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, twenty per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars and up to one million dollars, twenty-five per centum of such excess.

(f) Upon all in excess of one million dollars, thirty per centum of such excess.

(4) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision four of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, ten per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, fifteen per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, twenty per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, twenty-five per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars, thirty per centum of such excess:

§ 6. **Exemptions allowed.** The following exemptions from the tax are hereby allowed:

(1) All property transferred to societies, corporations, and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose), or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, education, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled, in possession or expectancy, to any such property or to the income thereof, shall be exempt; provided, however, that such society, corporation, institution or association be organized or existing under the laws of this state or that the property transferred be limited for use within this state.

(2) Property of the clear value of twenty-four thousand dollars, transferred to the widow or to a minor child of the decedent, and of ten thousand dollars transferred to each of the other persons described in the first subdivision of section four, shall be exempt.

(3) Property of the clear value of two thousand dollars, transferred to each of the persons described in the second subdivision of section four, shall be exempt.

(4) Property of the clear value of one thousand dollars, transferred to each of the persons described in the third subdivision of section four, shall be exempt.

(5) Property of the clear value of five hundred dollars, transferred to each of the persons and corporations described in the fourth subdivision of section four, shall be exempt.

§ 7. **Time of payment. Discount. Bond.** (1) All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within eighteen months, no interest shall be charged and collected thereon, but if not so paid, interest at the rate of ten per centum per annum shall be charged and collected from the time said tax accrued; provided, that if said tax is paid within six months from the accruing thereof a discount of five per centum shall be allowed and deducted from said tax. And in all cases where the executors, administrators, or trustees do not pay such tax within eighteen months from the death of the decedent, they shall be required to give a bond for the payment of said tax, together with interest.

(2) **If estate not settled within eighteen months.** The penalty of ten per cent per annum imposed by subdivision (1) of this section for the nonpayment of said tax, shall not be charged in cases where, in the judgment of the court, by reason of claims made upon the estate necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of eighteen months from the death of the decedent; but in such cases seven per cent per annum shall be charged upon the said tax from the expiration of said eighteen months until the cause of such delay is removed, after which ten per cent interest per annum shall again be charged until

the tax is paid; but litigation to defeat the payment of the tax shall not be considered necessary litigation.

§ 8. **Immediate appraisement and payment.** (1) When any grant, gift, legacy, devise or succession upon which a tax is imposed by section two of this act shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in section sixteen or seventeen of this act, and the tax prescribed by this act shall be immediately due and payable to the treasurer of the proper county, and, together with the interest thereon, shall be and remain a lien on said property until the same is paid.

(2) **Encumbrances.** In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made on account of any contingent encumbrance thereon, nor on account of any contingency upon the happening of which the estate or property or some part thereof or interest therein might be abridged, defeated or diminished; provided, however, that in the event of such encumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat or diminution of said estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax on account of the encumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by section eleven hereof upon order of the court having jurisdiction.

(3) **Property transferred in trust. Bond. Return of property filed. Recovery on bond if security not renewed.** When property is transferred in trust or otherwise, and the rights, interest or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, however, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this act, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as the difference between the amount paid and the amount which said person or corporation should pay under the provisions of this act; such return of overpayment shall

be made in the manner provided by section eleven of this act, upon order of the court having jurisdiction; provided, that the person or persons or body politic or corporate beneficially interested in the property chargeable with said tax or the trustees thereof may elect not to pay the same until such person or persons, or body politic or corporate beneficially interested in such property shall come into the actual possession or enjoyment thereof, and in that case such person or persons or body politic or corporate or trustees shall execute a bond to the people of the state of California in a penalty of twice the amount of said tax with such sureties as the said superior court may approve, conditioned for the payment of said tax and interest thereon at the rate of seven per cent per annum commencing at the expiration of eighteen months from the death of the decedent at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, and conditioned further, that if said bond be not renewed and the returns made as herein provided, the amount of said tax and interest thereon shall immediately become due and payable. Said bond shall be filed in the office of the county clerk of the proper county and a certified copy thereof shall be immediately transmitted to the state controller; provided, further, that such person or persons or body politic or corporate, or trustees, shall enter into such security within a period of ninety days after the entry of the order or decree fixing the inheritance tax charged against such transfer, or within such period thereafter as the court may in its discretion permit, and shall make a full and verified return of such property to said court and file the same in the office of the county clerk within one year from the date of such order or decree fixing tax, and at such times thereafter as the court on the application of the state controller may require, and renew such security every five years after the date of the approval thereof. Upon the approval of said bond as herein provided, said tax shall cease to be a lien upon the property so transferred. If such security shall not be renewed before the expiration of each five-year period, said bond shall immediately become due and payable and if the same be not paid forthwith, the attorney general shall file an action in the name of the people of the state on the relation of the controller, to recover the same and the penalties thereunder and no demand for payment shall be necessary before the institution of such suit. Whenever it shall be made to appear to the satisfaction of the court that any surety on such bond or undertaking has for any reason become insufficient, the court may on motion of the state controller, after such notice to such person or persons, body politic or corporate, or trustees as the court may require, order the giving of a new undertaking with sufficient sureties in lieu of such insufficient undertaking. In case such new undertaking so required shall not be given within the time required by such order, or in case the sureties thereon fail to justify thereon when required, all rights obtained by the filing of such original undertaking, or subsequent undertaking, shall cease and the amount of said tax and interest thereon shall immediately become due and payable.

(4) **Estates in expectancy.** Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the

tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation, upon which said estates in expectancy may have been limited.

(5) **Estate that can be divested by act of legatee or devisee.** Where an estate or interest can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of such divesting.

(6) **Future or contingent estate. Determination of value.** The value of every future, or contingent or limited estate, income or interest, shall, for the purposes of this act be determined by the rule, methods and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interest and contingencies shall be five (5) per cent per annum. The insurance commissioner shall without a fee on the application of any superior court or of any inheritance tax appraiser determine the value of any future or contingent estate, income or interest therein limited, contingent, dependent or determinable upon the life or lives of persons in being, upon the facts contained in any such appraiser's application or other facts to him submitted by said appraiser or said court and certify the same in duplicate to such court or appraiser, and his certificate thereof shall be conclusive evidence that the method of computation therein is correct. When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of said interest for the purpose of taxation under this act shall be the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which such annuitant or life tenant was entitled to the annuity or was in possession of the life estate.

§ 9. Collection of tax by administrator. (1) Any administrator, executor, or trustee having in charge or trust any legacy or property for distribution, subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money he shall collect the tax thereon, upon the market value thereof, from the legatee or person entitled to such property, and he shall not deliver, or be compelled to deliver, any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate, the executor, administrator, or trustee shall collect said tax from the distributee thereof, and the same shall remain a charge on such real estate until paid; if, however, such legacy be given in money to any person for a limited period, the executor, administrator, or trustee shall retain the tax upon the whole amount; but if it be not in money he shall make application to the superior court to make an apportionment, if the case require it,

of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

(2) **Sale of property to pay tax.** All executors, administrators, and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled by law to do for the payment of debts of the estate, and the amount of said tax shall be paid as hereinafter directed.

(3) **Payment within thirty days.** Every sum of money retained by an executor, administrator, or trustee, or paid into his hands, for any tax on property, shall be paid by him, within thirty days thereafter, to the treasurer of the county in which the probate proceedings are pending.

§ 10. **Treasurer's receipt.** Upon the payment to any county treasurer of any tax due under this act, such treasurer shall issue a receipt therefor, in triplicate, one copy of which he shall deliver to the person paying said tax, and the original and one copy thereof he shall immediately send to the controller of state, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and said controller shall retain one of said receipts and the other he shall countersign and seal with the seal of his office, and immediately transmit to the clerk of the court fixing such tax. And an executor, administrator, or trustee shall not be entitled to credits in his accounts, nor be discharged from liability for such tax, nor shall said estate be distributed, unless a receipt so sealed and countersigned by the controller, or a copy thereof, certified by him, shall have been filed with the court. Any person shall, upon payment to the county treasurer of the sum of fifty cents, be entitled to a duplicate, or copy, of any receipt that may have been given by said treasurer for the payment of any tax under this act.

§ 11. **Refund of tax.** (1) If any debts shall be proved against the estate of a decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted or upon which it has been paid by the person entitled to such legacy or distributive share, and such person is required by order of the superior court having jurisdiction, on notice to the state controller, to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the county treasurer; or if such tax has been paid to such county treasurer, such officer shall refund out of any inheritance tax moneys in his hands or custody such equitable proportion of the tax, and credit himself with the same in the account required to be rendered by him under this act.

(2) **Assessing tax on amount wrongfully deducted.** Where it shall be proved to the satisfaction of the superior court that deductions for debts were allowed upon the appraisal, since proved to have been erroneously allowed, it shall be lawful for such superior court to enter an order assessing the tax upon the amount wrongfully or erroneously deducted.

(3) **Refund of tax when order modified or reversed. Application within one year.** If, after the payment of any tax in pursuance of an

order fixing such tax, made by the superior court having jurisdiction, such order be modified or reversed by the superior court having jurisdiction within two years from and after the date of entry of the order fixing the tax, or be modified or reversed at any time on an appeal taken therefrom within the time allowed by law on due notice to the state controller, the county treasurer shall refund to the executor, administrator, trustee, person or persons by whom such tax was paid, the amount of any moneys paid or deposited on account of such tax in excess of the amount of tax fixed by the order modified or reversed, out of any inheritance tax moneys in his hands or custody, and credit himself with the same in the account required to be rendered by him to the controller on his semi-annual settlement; but no application for such refund shall be made after one year from such reversal or modification, unless an appeal shall be taken therefrom, in which case no such application shall be made after one year from the final determination on such appeal or of an appeal taken therefrom, and the representatives of the estate, legatees, devisees or distributees entitled to any refund under this section shall not be entitled to any interest upon such refund, and the state controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such overpayment.

(4) **Refund of tax erroneously paid.** When any amount of said tax shall have been erroneously paid, the superior court having jurisdiction, on application after notice to the state controller, and on satisfactory proof to it, shall by order require the county treasurer to refund and pay to the executor, administrator, trustee, person or persons who had paid any such tax in error the amount of such tax so erroneously paid; provided, that all applications for such repayment of such tax so erroneously paid shall be made within one year of the date of the entry of the order fixing tax or of the decree of final distribution of the estate. Such refund shall be made by said treasurer out of any inheritance tax moneys in his hands or custody and he shall credit himself with the same in the account required to be rendered by him to the controller on semi-annual settlement; and the state controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such erroneous payment.

(5) **Pending proceedings.** This section, as amended, shall apply to appeals and proceedings now pending and taxes heretofore paid in relation to which the period of one year from such reversal or modification has not expired when this section, as amended, takes effect.

§ 12. **Examination of books, etc. Penalty for divulging information.** (1) Whenever the state controller shall have reasonable cause to believe that a tax is due under the provisions of this act, upon any transfer of any property, and that any person, firm, institution, company, association or corporation has possession, custody or control of any books, accounts, papers or documents relating to or evidencing such transfer, the state controller or inheritance tax attorney, or any assistant inheritance tax attorney of the inheritance tax department, is hereby authorized and empowered to inspect the books, records, accounts, papers and documents of any such person, firm, institution, company, association or cor-

poration, including the stock transfer book of any corporation, for the purpose of acquiring any information deemed necessary or desirable by said state controller or such inheritance tax attorney or assistant inheritance tax attorneys, for the proper enforcement of this act, and for the collection of the full amount of tax which may be due the state hereunder. Any and all information acquired by said state controller or said inheritance tax attorney or assistant inheritance tax attorneys shall be deemed and held by said state controller and said inheritance tax attorney and assistant inheritance tax attorneys and each of them, as confidential, and shall not be divulged, disclosed or made known by them or any of them except in so far as may be necessary for the enforcement of the provisions of this act. Any controller or ex-controller, or inheritance tax attorney or ex-inheritance tax attorney, or assistant inheritance tax attorney or ex-assistant inheritance tax attorney, who shall divulge, disclose or make known any information acquired by such inspection and examination aforesaid, except in so far as the same may be necessary for the enforcement of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, or be imprisoned in the county jail for not more than ninety days, or both.

(2) **Penalty for refusing to permit examination.** Any officer or agent of any firm, institution, company, association or corporation having or keeping an office within this state, who has in his custody or under his control any book, record, account, paper or document of such firm, institution, company, association or corporation, and any person having in his custody or under his control such book, record, account, paper or document who refuses to give to the state controller, or said inheritance tax attorney, or any of said assistant inheritance tax attorneys, lawfully demanding, as provided in this section, during office hours to inspect or take a copy of the same, or any part thereof, for the purposes hereinabove provided, a reasonable opportunity so to do, shall be liable to a penalty of not less than one thousand dollars nor more than twenty thousand dollars, and in addition thereto shall be liable for the amount of the taxes, interest and penalties due under this act on such transfer, and the said penalties and liabilities for the violation of this section may be enforced in an action brought by the state controller in any court of competent jurisdiction.

§ 13. **Consent of controller to transfer of decedent's stock.** (1) No corporation organized or existing under the laws of this state, shall transfer on its books or issue a new certificate for any share or shares of its capital stock belonging to or standing in the name of a decedent or in trust for a decedent or belonging to or standing in the joint names of a decedent and one or more persons, without the written consent of the state controller or person by him in writing authorized to issue such consent.

(2) **Trust companies, etc., to retain amount to pay tax. Notice of transfer.** No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under

control or custody or under partial control or partial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or nonresident, or belonging to, or standing in the joint names of such a decedent and one or more persons, including the shares of the capital stock of, or other interest in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons, or to the survivor or survivors when held in the joint names of a decedent and one or more persons, or upon their order or request, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this act and unless notice of the time and place of such delivery or transfer be served upon the state controller and county treasurer at least ten days prior to said delivery or transfer; provided, that the state controller, or person by him in writing authorized so to do, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligation hereunder to give such notice or to retain any portion of said securities, deposits or other assets in their possession or control. And it shall be lawful for the state controller or county treasurer, personally or by representatives, to examine said securities, deposits or assets at the time of said delivery or otherwise.

(3) **Penalty for failure to comply.** Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than twenty thousand dollars, and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of the taxes, interest and penalties due under this act on said securities, deposits, or other assets above mentioned, and said penalties and liabilities of said safe deposit company, corporation, bank or other institution, person or persons for the violation of this section may be enforced in an action brought by the state controller in any court of competent jurisdiction.

§ 14. **Inheritance tax appraisers. Penalty for taking other than fee allowed.** The state controller shall appoint, and may at his pleasure remove, one or more persons in each county of the state to act as inheritance tax appraisers therein. Every such inheritance tax appraiser (in addition to any fees paid him as appraiser under section one thousand four hundred forty-four of the Code of Civil Procedure) shall be paid for his services out of any inheritance tax moneys in the hands of the treasurer of the county in which he may be acting, a reasonable compensation, to be fixed by the superior court of said county, or a judge thereof, and, together with said compensation, said appraiser shall be allowed his actual and necessary traveling and other incidental expenses, and the fees paid such witnesses as he shall subpoena before him, said ex-

penses and fees to be allowed by said superior court or a judge thereof; provided, that any claim for any such services or expenditure, must before payment, first receive the approval of the state controller; and provided, further, that in any probate proceeding in which the executor or administrator shall have failed to have had the inheritance tax appraiser act as one of the appraisers under section one thousand four hundred forty-four of the Code of Civil Procedure and to have paid him his fees therefor, the expense of making the inheritance tax appraisement in this act provided for shall be paid out of said estate, and the executor or administrator thereof shall be liable for said fee. Any such appraiser who shall take any fee or reward, other than such as may be allowed him by law, from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay said tax, or any portion thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, or be imprisoned in the county jail ninety days or both, and in addition thereto the court shall dismiss him from such service.

§ 15. **Jurisdiction of superior court.** The superior court in the county in which is situate the real property of a decedent, who was not a resident of the state, or if there be no real property, then in the county in which any of the personal property of such nonresident is situate, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act; the court first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other; provided, that the superior court having acquired jurisdiction in probate of the estate of a decedent shall hear and determine in said probate proceedings all questions in relation to any tax arising under the provisions of this act: (a) Upon property passing in said probate proceedings. (b) Upon any other property transferred, within the meaning of subdivision three of section two or any other provisions of this act, to any person, institution or corporation taking any property under and by virtue of said probate proceedings.

§ 16. **Appointment of inheritance tax appraisers in probate proceedings. Powers of referee. Witnesses. Evidence. Report to superior court.** (1) When any superior court, having jurisdiction in probate of the estate of any decedent, or a judge of such court, shall, in accordance with section one thousand four hundred forty-four of the Code of Civil Procedure, appoint the appraiser or appraisers in said section provided for, said superior court or judge thereof shall also at the same time designate and appoint an inheritance tax appraiser (unless such designation and appointment be previously made) to ascertain and report to said superior court the amount of inheritance tax due upon any property passing in said probate proceeding, or a lien thereon, or upon any other property transferred within the meaning of subdivision (3) of section two of this act, or under any other provision of this act, to any person, institution or corporation taking property under and by virtue of said probate proceedings, together with such other or additional information

as shall assist said court in the determination of said tax. Thereupon said inheritance tax appraiser shall have all the powers of a referee of said superior court, and shall have jurisdiction to require the attendance before him of the executor or administrator of said estate, or any person interested therein, or any other person whom he may have reason to believe possesses knowledge of the estate of said decedent, or knowledge of any property transferred by said decedent within the meaning of this act, or knowledge of any facts that will aid said appraiser or the court in the determination of said tax. For the purpose of compelling the attendance of such person or persons before him, and for the purpose of appraising any property or interest subject to, or liable for any inheritance tax hereunder, and for the purpose of determining the amount of tax due thereon, the said inheritance tax appraiser is hereby authorized to issue subpoenas compelling the attendance of witnesses before him. Any person or persons who shall be served with a subpoena, issued by said inheritance tax appraiser, to appear and testify or to produce books and papers, and who shall refuse and neglect to appear and testify or to produce books and papers relevant to such appraisement, as commanded in such subpoena, shall be guilty of a contempt of court. And he may examine and take the evidence of such witnesses or of such executor or administrator, or other person under oath concerning such property and the value thereof, and concerning the property or the estate of such decedent subject to probate, and concerning any transfer made by such decedent within the meaning of this act. Upon the completion of his inheritance tax appraisement in any probate proceeding, the inheritance tax appraiser shall make a report in writing to the superior court of the clear market value of the several interests in the estate of the decedent, and shall report the amount of inheritance or transfer tax chargeable against, or a lien upon such interests, acquired by virtue of said probate proceedings or by any transfer within the meaning of this act, to any person, institution or corporation acquiring any property by virtue of said probate proceedings together with such other facts as may advise the court in regard thereto, or which the court may require, and may return to said superior court such depositions as he may have had reduced to writing, exhibits, or other testimony or information taken before him, or submitted to him.

(2) **Notice of filing report. Order confirming report. Hearing objections.** Upon the filing of said report said appraiser shall mail a copy thereof to the state controller and the clerk of said superior court shall on said day or the next succeeding judicial day give notice of such filing to all persons interested in such proceedings by causing notices to be posted in at least three public places in the county, one of which must be the place where the court is held, and in addition thereto shall mail to the state controller and to all persons chargeable with any tax in said report who have appeared in such proceeding, a copy of said notice. At any time after the expiration of ten days thereafter, if no objection to said report be filed, the said superior court or a judge thereof, may, without further notice give and make its order confirming said report and fixing the tax in accordance therewith. At any time prior to the making of said order, any person interested in said proceeding

(including the state controller) may file objections in writing to said report. Thereupon said superior court shall, by order, fix a time, not less than ten days thereafter, for the hearing thereof, and shall direct the clerk of said superior court to give such notice thereof as it shall deem necessary; provided, that a copy of such notice and of such objections shall be forthwith mailed to the state controller, county treasurer and inheritance tax appraiser. Upon the hearing of said objections, said court may make such order as to it may seem meet and proper in the premises.

(3) **Order that no inheritance taxes due.** If, upon examination of the executor or administrator of said estate or other persons familiar with the affairs of such decedent, or from other information before him, it shall appear to the inheritance tax appraiser that there is no inheritance tax due out of said estate or a lien upon any property or interest therein, said appraiser may so certify to the superior court, and at any time thereafter, if no objection to said certificate shall have been filed, said superior court or a judge thereof may, without further notice, make an order or decree that there are no inheritance taxes due out of said estate or upon any interest therein or may make such different order as may to it seem meet in the premises. Such order shall be conclusive only as to such property as may have been returned in the inventory or inventory and appraisement in said probate proceedings.

§ 17. Determination of taxability of transfer. Examination by appraiser. Report of findings. Service. Hearing by court. (1) If it shall appear to the superior court upon petition of the state controller that any transfer has been made within the meaning of this act, and the taxability thereof and the liability for such tax and the amount thereof have not been determined, and that no proceedings are pending in any court in this state wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined, said court shall issue a citation ordering and directing the persons who may appear liable therefor or known to own any interest in or part of the property transferred, to appear before said court or before an inheritance tax appraiser to be designated by said order at a time and place in said order named, not less than ten days nor more than one year from the date of such order, to be examined, under oath by said court or by said appraiser as the case may be, concerning said transfer and all facts connected therewith, and concerning the property transferred and the character and value thereof.

If said person or persons shall be directed to appear before said appraiser said appraiser shall, at the time and place in said order named, or at such time and place to which said appraiser may adjourn said hearing, proceed to examine said person or persons and such witnesses as said appraiser may subpoena before him, and for the purpose of said hearing, and for the purpose of ascertaining any facts concerning the taxability of said transfer or any taxes due on account of such transfer, said appraiser shall have the powers of a referee of said court, and is hereby authorized to issue subpoenas compelling the attendance of witnesses before him, and to administer oath, and to take the evidence of such witnesses under oath concerning such property and the value thereof

and concerning such transfer. Said appraiser shall report to said court his findings and conclusions in relation to said transfer and said tax, and may return to said court, any depositions, exhibits or other testimony or information taken before him or exhibited to him. The procedure subsequent to the filing of said report shall conform to subdivision (2) of section sixteen of this act.

Except as herein otherwise provided, the service of such citation and the time, manner and proof thereof, and the hearing and determination thereon, and the hearing and determination upon the facts returned in such report, and the enforcement of the determination or decree, shall conform to the provisions of chapter twelve, title eleven, part three of the Code of Civil Procedure, and the clerk of the court shall, upon the request of the state controller, furnish, without fee, one or more transcripts of such decree, and the same shall be docketed and filed by the county clerk of any county in the state, without fee, in the same manner and with the same effect as provided by section six hundred seventy-four of said Code of Civil Procedure for filing a transcript of an original docket.

The superior court may hear the said cause upon the relation of the parties and the testimony of witnesses, and evidence produced in open court, and, if the court shall find said property is not subject to any tax, as herein provided, the court shall, by order, so determine; but if it shall appear that said property, or any part thereof, is subject to any such tax, the same shall be appraised and taxed as in other cases.

(2) **Petition to determine taxability. Compensation of appraiser.** Verified petitions may be filed by any interested party with the superior court, alleging and admitting that a transfer within the meaning of this act has been made and the taxability thereof and the liability for such tax and the amount thereof have not been determined. and that no proceedings are pending in any court in this state wherein the taxability of such transfer and the liability therefor and the amount thereof, may be determined, and that the petitioner desires such determination and desires to pay said tax, if any be due. Upon the filing of such petition the superior court or a judge thereof shall by order designate and appoint an inheritance tax appraiser to ascertain and report to said court the amount of the inheritance tax, if any, due by said petitioner on account of such transfer, and shall fix a time and place, not less than ten days thereafter, for the hearing of said matter before said inheritance tax appraiser, a copy of which petition and order shall be forthwith mailed to the state controller, and shall refer to said petition and said matter to said inheritance tax appraiser who shall have all of the powers of a referee of said court, including the powers prescribed in subdivision (1) of section sixteen of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of subdivisions (1) and (2) of section sixteen of this act.

In the event that final judgment is rendered in said proceeding, ascertaining and determining that no inheritance tax is due on account of said transfer or that the amount of the tax to which said transfer is liable, is less than twenty dollars the court shall, in addition to the

amount of the tax, if any, include in such judgment and assess against the petitioner reasonable compensation for said inheritance tax appraiser, not exceeding the sum of ten dollars, and the necessary traveling and incidental expenses of said appraiser.

(3) **Action to quiet title. Hearing by appraiser. Judgment in favor of state.** Actions may be brought against the state by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this act, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this act. No such action shall be maintained where any proceedings are pending in any court in this state wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the state in said action shall be served upon the state controller.

At any time after issue is joined in such action the court, on its own motion, or upon the motion of any interested party, may by order appoint and designate an inheritance tax appraiser to hear said matter and report to the court thereon and shall in such order fix a time and place for the hearing of said matter before said inheritance tax appraiser, and direct notice of such time and place to be given in such manner as the court shall deem proper, and shall refer said matter to said inheritance tax appraiser who shall have all of the powers of a referee of said court, including the powers prescribed in subdivision (1) of section sixteen of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of subdivisions (1) and (2) of section sixteen of this act.

Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of this act, the court shall award affirmative relief to the state in said action, and judgment shall be rendered therein in favor of the state, ascertaining and determining the amount of said tax, and the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor, and shall assess against such person or persons reasonable compensation for said inheritance tax appraiser and his necessary traveling and incidental expenses.

(4) **Actions commenced, where.** Actions under this section shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned herein.

(5) **No fees charged.** No fee shall be charged said state controller by any public officer in this state for the filing or recording of any petition, lis pendens, decree or order, or for the taking of oaths or acknowledgments in any proceeding taken under this act; nor shall any

undertaking be required from or costs charged against the state controller or the state of California in any such proceeding.

§ 18. **Orders have force of judgments in civil actions.** The orders, decrees and judgments fixing tax or determining that no tax is due, mentioned in this act, shall have the force and effect of judgments in civil actions. Except as otherwise herein provided, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments and execution of judgments, so far as applicable, shall govern all proceedings taken under this act. Nothing in this section shall preclude the state from relief herein provided for, which may be inconsistent with the provisions of the Code of Civil Procedure.

§ 19. **Taxes paid to state treasurer.** The treasurer of each county shall collect all taxes and moneys that may be due and payable under this act and pay the same to the state treasurer (excepting such moneys as he may pay out from time to time pursuant to the provisions of this act) and the state treasurer shall give him a receipt therefor; of which collection and payment he shall make a report, under oath, to the controller, between the first and fifteenth days of May and December of each year, stating for what estate paid, and in such form and containing such particulars as the controller may prescribe; and for all such taxes collected by him and not paid to the state treasurer by the first day of June and January of each year he shall pay interest at the rate of ten per centum per annum.

§ 20. **Percentage of tax retained by county treasurer.** The treasurer of each county shall be allowed to retain, on all taxes paid and accounted for by him each year under this act, in addition to his salary or fees now allowed by law, three per centum of the first fifty thousand dollars so paid and accounted for by him, one and one-half per centum on the next fifty thousand dollars so paid and accounted for by him, and one-half of one per centum on all additional sums so paid and accounted for by him; provided, that no county treasurer shall be entitled to retain to his own use more than the sum of two hundred dollars out of the inheritance taxes paid on account of any transfer or transfers made by, or resulting from the death of, any one decedent, nor more than five thousand dollars out of the total inheritance taxes accounted for in any one year.

§ 21. **State controller may employ counsel.** The state controller, whenever he shall be cited as a party in any proceeding or action to determine any tax under this act provided, or whenever he shall deem it necessary for the better enforcement of this act to make any special employment to secure evidence of evasion of said tax, or to commence or appear in any proceeding or action to determine any tax hereunder, may, by and with the consent and approval of the attorney-general, make such special employment or designate and employ counsel or attorney in or out of this state to represent him on behalf of the state, and, by and with such consent of the attorney-general, he is hereby authorized to incur the necessary expense for such employment and any

reasonable and necessary expense incident thereto. And the county treasurer is hereby authorized and directed to pay out of any funds which may be in his hands on account of this tax, on presentation of a sworn itemized account and on certificate of the state controller and attorney general, all expenses incurred as in this section above provided, but no expense for such special employment or legal services, up to and including the entry of the order of the court fixing the tax and the same becoming final, shall exceed ten per centum of the tax and penalties collected; provided, that all reasonable and necessary expenses incurred, in any legal action or proceeding in any court of this state or on any appeal therefrom, other than attorney's fees, including expense of serving processes and printing and preparing of necessary legal papers, may be allowed and paid in the manner above provided, even though no tax be recovered in such action or proceeding, and the limitations herein made shall not apply thereto.

§ 22. **Disposition of taxes collected.** All taxes levied and collected under this act, up to the amount of two hundred fifty thousand dollars annually, shall be paid into the treasury of the state, for the uses of the state school fund, and all taxes levied and collected in excess of two hundred fifty thousand dollars annually shall be paid into the state treasury to the credit of the general fund thereof.

§ 23. **Penalty for failure to perform duty.** Every officer who fails or refuses to perform, within a reasonable time, any and every duty required by the provisions of this act, or who fails or refuses to make and deliver within a reasonable time any statement or record required by this act, shall forfeit to the state of California the sum of one thousand dollars, to be recovered in an action brought by the attorney general in the name of the people of the state on the relation of the controller.

§ 24. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 25. **Acts repealed. Pending suits, etc., not affected.** An act entitled "An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder or under an act hereby repealed to be known as the 'inheritance tax act'; to repeal an act entitled 'An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against

claims of liens, arising hereunder; to repeal an act entitled "An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers; to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of liens arising hereunder"; to repeal an act entitled "An act to establish a tax on collateral inheritances, bequests and devises, to provide for the collection and to direct the disposition of its proceeds," approved March 23, 1893, and all amendments thereto, and to repeal all acts and parts of acts in conflict with this act, approved March 20, 1905, and all amendments thereto, and all acts and parts of acts in conflict with this act,' approved April 7, 1911"; approved June 16, 1913, and all amendments thereto, and all acts and parts of acts in conflict with this act are hereby expressly repealed; provided, however, that such repeal shall in no wise affect any suit, prosecution or proceeding pending at the time this act shall take effect, or any right which the state of California may have at the time of the taking effect of this act, to claim a tax upon any property under the provisions of the act or acts hereby repealed, for which no proceeding has been commenced, and where no proceeding has been commenced to collect any tax arising under any act hereby repealed the procedure to collect such tax shall conform to the provisions hereof; nor shall such repeal affect any appeal, right of appeal in any suit pending, or orders fixing tax, existing in this state at the time of the taking effect of this act.

ACT 4065.

An act to carry into effect the provisions of section 14 of article XIII of the constitution of the state of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations, banks and insurance companies for the benefit of the state, all relating to revenue and taxation.

[Approved April 1, 1911. Stats. 1911, p. 530.]

Amended 1913, pp. 3, 615; 1915, pp. 3, 937.

This act was revised and a substitute passed for it in 1917.

The act of May 11, 1917, adding sections 3664a to 3671d to the Political Code, contained the following provision (Stats. 1917, p. 370):

§ 38. This act is a revision of and substitute for the act entitled "An act to carry into effect the provisions of section fourteen of article thirteen of the constitution of the state of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations, banks and insurance companies for the benefit of the state, all relating to revenue and taxation," approved April 1, 1911, and amendments thereof; provided, however, that nothing herein contained shall affect any tax heretofore levied or assessed in accordance with the provisions of said act and amendments thereof; and provided, further, that all laws in force prior to the taking effect of this act and providing

for the levy and collection of such taxes shall, for the purpose of the collection of such taxes, remain in full force and effect.

ACT 4066.

An act to carry into effect the provisions of subdivision (e) of section 14 of article XIII of the constitution of the state of California as the said article was amended on the eighth day of November in the year 1910, in so far as the same relates to the state university; and also to provide for the permanent support and improvement of the University of California; and to that end making a continuing appropriation and creating an annual fund therefor; and repealing an act entitled: "An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor, and to repeal an act approved February 14, 1887, entitled: 'An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor,' and also to repeal an act approved February 27, 1897, entitled 'An act to provide additional support and maintenance, and for the acquisition of necessary property and improvements of the University of California, by the levy of a rate of taxation, and the creation of a fund therefor,'" approved March 20, 1909.

[Approved April 25, 1911. Stats. 1911, p. 1104.]

Amended 1915, p. 448; 1917, p. 534.

The amendment of 1917 follows:

§ 1. **State university fund created.** In order to carry into effect the provisions of subdivision (e) of section fourteen of article thirteen of the constitution of the state of California as the said article was amended on the eighth day of November in the year one thousand nine hundred ten, in so far as the same relates to the state university, and to provide for the permanent support and improvement of the University of California, there is hereby created an annual fund to be called "the state university fund"; said fund for the sixty-third fiscal year shall be equal to, but not more than, seven per cent in excess of the amount received by the university under the provisions of chapter three hundred twenty-nine of the statutes of one thousand nine hundred nine for the fiscal year ending June thirtieth in the year one thousand nine hundred eleven; and provided, further, that such fund for each of the sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first and seventy-second fiscal years shall be equal to, but not more than, seven per cent in excess of the amount received by the university under this act for the immediately preceding respective fiscal year. [Amendment approved May 15, 1917; Stats. 1917, p. 534.]

ACT 4067d.

An act authorizing and providing for an investigation and report upon the matter of revenue and taxation, and making an appropriation therefor.

[Approved May 10, 1915. Stats. 1915, p. 432.]

Amended 1917; Stats. 1917, p. 301.

The amendment of 1917 follows:

§ 5. **Duties of tax commission.** The officers and appointees provided for in section two of this act shall perform such duties as the governor may deem necessary to further the objects of senate joint resolution number three, adopted by the legislature January 26, 1917, and chapter number thirty-two of the laws of one thousand nine hundred seventeen. [New section added May 10, 1917; Stats. 1917, p. 301.]

ACT 4067f.

An act to regulate and limit the amount that may be produced by tax levies in the aggregate by political subdivisions of this state, creating a state board of authorization, providing for the making and filing of budgets by such subdivisions, and repealing all acts and parts of acts in conflict with this act.

[Approved May 31, 1917. Stats. 1917, p. 1402. In effect July 30, 1917.]

The operation of this statute has been suspended by a referendum petition filed in the office of the secretary of state July 26, 1917. The act will be voted on at any general election or at any special election that may be sooner called by the governor.

§ 1. **Terms defined.** (a) For the purposes of this act the term "political subdivision" shall mean, refer to and include counties, cities, towns, and all other subdivisions of this state which have or shall hereafter have power to make tax levies; the term "governing body" shall mean, refer to and include the body, board, commission or council, by whatever name the same may be designated in legislative act or local charter, which has and exercises the power of a political subdivision to levy taxes therein; and the term "estimate" shall mean, refer to and include any and all estimates, statements or calculations required by legislative act or local charter to be made or prepared and filed with or submitted to a governing body for the purpose of obtaining from such governing body a levy or levies of taxes to produce all or any part of the amount of money specified therein; and the term "year" shall mean and refer to fiscal year.

(b) **Amount produced by tax levies.** The amount produced in a preceding year or the amount to be produced in a current or ensuing year by tax levies by the governing body of any political subdivision shall be ascertained by multiplying the total assessed taxable value of each district within such subdivision by the total rate of tax levied or to be levied in such district, and the sum of these products shall be taken as the amount produced or to be produced in such political subdivision; provided, that from the amount produced, as so ascertained, there shall

be deducted the amount by which the production of any interest or bond levy will be decreased in the current year by reason of the payment, in whole or in part, of bonds of a subdivision prior to the time of levying taxes therein for such current year, and the remainder shall be taken as the amount produced.

§ 2. **Maximum limit on rate.** In every case in which a maximum limit upon the rate of any tax levy permitted, directed or authorized to be made by the governing body of any political subdivision is now or may hereafter be prescribed by legislative act or charter, such maximum limit shall remain as so prescribed and shall not be construed to be increased by any of the provisions of this act.

§ 3. **Statement by officer of estimated amount needed. Change by governing body.** Not less than ninety days before the day prescribed by legislative act or charter for the governing body of a political subdivision to fix the rates of taxes to be levied therein, each officer thereof shall file with the governing body, in duplicate and upon a form or forms to be prescribed as hereinafter provided, a statement showing the income and expenditures of his office for the last two fiscal years immediately preceding, the estimated amount of money needed for his office for each and every purpose for the next fiscal year, and such other information as the said form or forms may call for. Such statements so filed as aforesaid shall be used by the governing body for the purpose of making up the budget of its political subdivision for the ensuing fiscal year.

The amount proposed to be produced by any special levy of taxes, and any estimate of the amount of money required or needed for any purpose filed with or submitted to the governing body of any political subdivision for the purpose of obtaining a levy or levies of taxes to produce the amount of money therein specified, may be revised and changed in whole or in part by the governing body with which the same is so filed or to which it so so submitted.

§ 4. **State board of authorization created.** A state board of authorization is hereby created for the purpose of determining whether an emergency or urgent necessity exists by reason of which any political subdivision may make tax levies that will produce an amount greater than the amount limited by section six; to prescribe the forms mentioned in section three; and to have such other powers and duties as are hereinafter vested therein. The members of the said board shall be the state controller, the chairman of the state board of control, the chairman of the state board of equalization and two other persons in the service of the state to be appointed by the governor, one of whom shall be a member of the state board of control. The members of the state board of authorization shall organize by electing a chairman and a secretary from their own number.

§ 5. **Budget of political subdivision filed with board.** Not less than sixty days prior to the time prescribed by legislative act or charter for the governing body of a political subdivision to determine upon and fix the rates of tax levies therein, such governing body shall file with the

state board of authorization a copy of the statement theretofore filed with it by each officer as required by section three, and also, upon such form or forms as the state board of authorization may prescribe, the budget of such political subdivision for the ensuing fiscal year. Such budget shall show the income and expenditures of such political subdivision for the last two fiscal years immediately preceding, the estimated expenditures for each and every purpose for the ensuing fiscal year, an estimate of income for the ensuing fiscal year from sources other than taxation, the rate of each tax levy proposed to be made for such ensuing year, and such other facts and information as the state board of authorization may require.

§ 6. **No increase in excess of five per cent.** No governing body of any political subdivision shall in any year make tax levies which, in the aggregate, will produce an amount more than five per cent in excess of the amount produced by tax levies made thereby during the year immediately preceding, except as hereinafter provided.

§ 7. **Approval by board.** The state board of authorization shall examine such budgets, proposed tax levies and other matter filed as required by section five, and, after public hearing thereon, shall approve the proposed tax levies if the amount the same will produce will not exceed the amount limited by section six; otherwise it shall disapprove such proposed levies, giving its reasons therefor, and return them and the budget to the proper governing body to be corrected and revised by it in accordance with the reasons given, to the end that the amount that will be produced thereby shall not exceed the amount limited by section six. In correcting or revising any proposed levies or budget so returned for correction or revision the governing body shall make due provision in any event first for the principal and interest of bonded indebtedness and second for the support and maintenance of the public schools. No taxes shall be collected under any levy by the governing body of a political subdivision until after such levy shall have been approved or corrected and revised as in this section required.

§ 8. **Request to make levies producing excess amount.** In case of emergency or urgent necessity which, in the judgment of a governing body requires the making of tax levies which, in the aggregate, will produce an amount more than five per cent in excess of the amount produced by tax levies made thereby in the year immediately preceding, such fact shall be set forth in the form of a special request, containing a description of such emergency or urgent necessity and a statement of the amount in dollars of the desired excess, and filed with the state board of authorization. As soon as may be after receiving such special request the state board of authorization shall publicly hear and determine the same under such rules as it may prescribe. If the state board of authorization shall be of opinion that such emergency or urgent necessity exists it shall specifically authorize the making of tax levies, which, in the aggregate, will produce such excess amount; if it shall not be of such opinion it shall so state, giving its reasons therefor; and its decision shall be final unless changed by the voters as provided in section nine.

§ 9. **Petition to call special election. Notice. Ballots. Three-fifths vote required.** Within ten days after the date of the order or decision of the state board of authorization on any special request filed as required in the preceding section, a petition may be filed with the clerk or recording officer of the governing body of the political subdivision affected thereby, asking that a special election be called by such governing body to determine the question of whether such order or decision shall stand as final. If said petition is signed by not less than fifteen per cent of the electors of such subdivision resident therein for the period requisite to enable them to vote at a general election, the governing body with which the same is filed shall call the special election therein requested by publishing notice thereof in a daily paper, published in such subdivision, for five consecutive days before the same is held. If no daily paper is published therein, such notice shall be posted in at least fifty of the most public places in such subdivision for at least five consecutive days before the day of the election. Such notice must specify the time, place or places, and the purpose of said special election and the hours during which the polls will be kept open. Said election shall be conducted in accordance with the general election laws of this state, where applicable and not in conflict herewith. The ballots shall contain the question "Shall —— (naming the political subdivision) make tax levies in the year —— (naming the fiscal year) which will produce dollars (naming in words and figures the total sum desired to be produced, including the exact amount of increase requested of the board of authorization, in excess of the amount produced in the year immediately preceding) more than the amount produced by all tax levies in the year —— (naming the last preceding fiscal year)?" Under said question there shall be printed two squares, one above the other. Above the first square there shall be printed the word "yes," and above the second the word "no." Each voter shall indicate his vote by marking or stamping a cross (×) in the proper square. Every elector resident within the political subdivision for the period requisite to enable him to vote at a general election shall be entitled to vote at the election herein provided for. The votes cast shall be canvassed as expeditiously as is practicable and if not less than three-fifths of the votes cast shall be in the affirmative the governing body of the subdivision in which the election was held shall have power to make tax levies for the ensuing year which, in the aggregate, will produce the amount stated on the ballots in excess of the amount produced during the year preceding; but if the number of votes cast in the affirmative shall be less than three-fifths of all the votes cast at such election, the governing body shall not have such power. Such election must be held within fifteen days after the filing of a proper petition therefor. The result of such election, with a statement of the total number of votes cast and the total number of affirmative and negative votes, shall be forthwith recorded in the minutes of the governing body and certified to the board of authorization. Tax levies made pursuant to the decision of an election held as provided in this paragraph shall not require approval by the state board of authorization.

§ 10. **When boundaries of political subdivision changed.** During the first year after the boundaries of any political subdivision are changed

to include or exclude in whole or in part property theretofore included in another political subdivision, no greater amount may be produced by tax levies upon property within such new boundaries than the amount produced by tax levies thereon in the year immediately preceding, plus five per cent, without special request and authorization as provided in section eight hereof.

§ 11. **Excess amount excluded in estimate for ensuing year.** The amount of any increase or excess, over the normal increase permitted by section six hereof, authorized by the state board of authorization after special request therefor, or by the voters as provided in section nine, shall be excluded in determining the amount that may be produced in an ensuing year without such special authorization or election.

§ 12. **Procedure prescribed by board.** The time, manner, form, contents of and procedure on special applications and requests to the state board of authorization under this act shall be prescribed by the said board, and all rules or orders prescribing the same may be modified or amended at any time. In the event any order is made by the state board of equalization under the provisions of section three thousand seven hundred five of the Political Code, the state board of authorization shall have power by order, in the event it deems it advisable so to do, to change any time requirement of this act so as to adjust the performance of duties under this act by governing bodies, and the petitioning for, publication of notice for, holding of, and certification of the results of elections held hereunder to meet any change of time so as aforesaid authorized by the state board of equalization.

§ 13. **Application of percentage limitation.** The percentage limitation provided for in sections six and eight shall apply to and restrict the amount produced or to be produced by the aggregate of all tax levies that the governing body of any political subdivision has or shall hereafter have power to make, or that it is its duty to make, for any purpose whatsoever.

In no event shall this act be construed, either in whole or in part, to permit the governing body of any political subdivision to make a levy of taxes for any purpose at a rate higher than the rates prescribed in section two.

§ 14. **City, etc., may become subject to act.** This act shall apply only to counties and to the governing bodies thereof; provided, any city, city and county or other political subdivision may by resolution of its governing body declaring its intention so to do, subject such political subdivision and such governing body to all the terms, conditions, limitations and requirements hereof by filing a certified copy of such resolution with the state board of authorization. From and after the filing with the state board of authorization of a certified copy of the resolution herein provided for, the governing body so passing the same and its political subdivision shall be subject in all respects and particulars to the provisions, conditions, requirements and limitations of this act.

§ 15. **Minimum limits abolished. Repealed.** In all cases in which levies of taxes by any political subdivision are permitted, authorized or

directed to be made and the minimum limits thereof or the minimum amount or amounts that shall be raised thereby are expressed in terms of mills, cents, dollars, per cent of assessed value, or in dollars per capita or other unit, such minimum limits and each thereof are hereby expressly abrogated and abolished. All acts and parts of acts in conflict with this act are hereby repealed.

ACT 4067g.

An act to provide for the payment into the county treasury of any moneys now held by county tax collectors which represent duplicate or excess payments of taxes on property in their respective counties, and to provide for the distribution and repayment of such moneys when so paid, and to provide for the payment, repayment and distribution of any duplicate or excess collections which may be made hereafter.

[Approved April 12, 1917. Stats. 1917, p. 116. In effect July 27, 1917.]

§ 1. **County tax collector to pay excess taxes to treasurer.** It shall be the duty of every county tax collector, within thirty days after this act takes effect, to pay into the treasury of his county any moneys which said tax collector may have on hand, representing duplicate or excess payments of taxes on property within his county, including such as may have been collected during a previous term or terms, as well as during his present term of office. If the records of the tax collector show the fact, there shall be filed with the county auditor at the time of such payment a description of each piece of property for which such duplicate tax payments were collected and the amount of the tax collected for each such piece of property in excess of the tax regularly levied and collected on such property in any one year.

§ 2. **Recovery of excess payments. Allowance of claim.** Within five years from the time of such payment into the county treasury by the tax collector, any person holding a tax receipt showing the payment to a county tax collector of taxes in any one year on any given property in the county in excess of the taxes which have been regularly levied and collected upon said property for said year, may recover the excess over and above the tax regularly levied and collected on such property for such year, by filing with the board of supervisors a claim therefor, and surrendering with such claim the tax receipt for such excess payment. If the duplicate payment of taxes in excess of the regularly levied taxes shall have been paid by different persons, the party first filing such claim and receipt for the excess payment, shall be entitled to the refund. If, upon examination by the board of supervisors, it is found that such claim has been filed within the five years and represents a payment in excess of the taxes regularly levied and collected for any given piece of property in the county for any given year and the amount thereof has been paid into the county treasury by the tax collector as aforesaid, the board of supervisors shall allow the said claim for the excess payment to the person entitled thereto.

§ 3. **Moneys credited to general fund.** All moneys paid to the county treasurer by the county tax collector as herein provided, shall be placed to the credit of the general fund of the county.

§ 4. **Duty of tax collector.** Whenever any duplicate or excess payment of taxes is made hereafter, it shall be the duty of the tax collector to retain same for thirty days and if not refunded as hereinafter provided to pay the same into the county treasury on the first Monday of each month thereafter, and at the same time file with the county auditor a description of the property upon which said taxes have been collected, the excess amount collected for each piece so described and the name of the person to whom the property is assessed at the time such excess payment is made. Such duplicate or excess payment of taxes shall be placed to the credit of the general fund of the county and within five years the party making the same, or in the event the payments are made by different parties, the party first filing his claim therefor in the manner and form hereinbefore provided, may secure a refund of such duplicate or excess payment; provided, however, that during such thirty day period, the tax collector may adjust any mistakes in the payment of taxes by returning to the party or parties, making such duplicate or excess payments the amount thereof.

§ 5. **Suit by district attorney.** If any tax collector shall refuse to comply with the provisions of this act, the district attorney of the county is hereby authorized to begin suit against the county tax collector to recover any sums in the possession of said county tax collector representing said duplicate or excess payment of taxes, and the statute of limitations shall not be a defense to the maintenance of any such action.

ACT 4067h.

An act permitting daily payment into the county treasury of duplicate or excess payments of taxes made to the tax collector and providing for the refund of such payments.

[Approved May 5, 1917. Stats. 1917, p. 248. In effect July 27, 1917.]

§ 1. **Daily payments of excess taxes.** The county tax collector, notwithstanding the provisions of any other statute enacted at the forty-second session of the legislature of this state, may pay daily into the county treasury under the provisions of section four thousand one hundred one *a* of the Political Code all duplicate or excess payments of taxes hereafter made to him on property within the county; and all such duplicate and excess payments so paid into the county treasury shall be subject to refund under the provisions of section three thousand eight hundred four of the Political Code.

ACT 4067i.

An act to provide for the assessment, levy and collection of taxes for the support of the state government for the sixty-ninth and seventieth fiscal years.

[Approved May 14, 1917. Stats. 1917, p. 470. In effect immediately.]

§ 1. **Assessment and tax levy for support of state government. Sum to be raised for sixty-ninth fiscal year. Ad valorem rate to meet**

deficiency. The state board of equalization shall, between the first Monday in March and the first Monday in July in the year one thousand nine hundred seventeen, for the support of the state government assess and levy taxes upon the property in the manner and upon the rates of taxation as provided for in the subdivisions *a*, *b*, *c*, and *d*, of section fourteen of article thirteen of the constitution of the state of California, or if any rate of taxation shall have been changed by the legislature pursuant to subdivision *f* of said section and article, then upon such rate of taxation as so changed and fixed, for the purpose of raising the sum of twenty million four hundred sixty thousand dollars for annual expenditure for the support of the state government for the sixty-ninth fiscal year, and in the event that the taxes so assessed and levied, together with all available revenues other than those revenues required by law to be used for special uses, shall not raise said sum of twenty million four hundred sixty thousand dollars, then said above-named revenues shall be deemed insufficient to meet the annual expenditures of the state for the sixty-ninth fiscal year, which deficiency is hereby declared to be the difference between the amount of taxes assessed and levied upon the property and in the manner and upon the rates of taxation hereinbefore specified, together with all other state revenues, other than those revenues required by law to be used for special uses, and said sum of twenty million four hundred sixty thousand dollars, then said state board of equalization, in accordance with the provisions of subdivision *e* of said section fourteen of article thirteen of the constitution of the state of California, at the time provided in section three thousand six hundred ninety-six of the Political Code, shall fix such an ad valorem rate of taxation for the said sixty-ninth fiscal year upon each one hundred dollars in value of taxable property, upon all the property in the state of California not exempt from taxation under the law and subject to taxation for state purposes on the seventh day of November in the year one thousand nine hundred ten, as, after allowing five per cent for delinquencies, will raise for said sixty-ninth fiscal year the amount of said deficiency.

§ 2. **Sum to be raised for seventieth fiscal year. Ad valorem rate to meet deficiency.** The state board of equalization shall, between the first Monday in March and the first Monday in July in the year one thousand nine hundred eighteen, for the support of the state government, assess and levy taxes upon the property in the manner and upon the rates of taxation as provided for in subdivisions *a*, *b*, *c*, and *d*, of section fourteen of article thirteen of the constitution of the state of California, or if any rate of taxation shall have been changed by the legislature pursuant to subdivision *f* of said section and article, then upon such rate of taxation as so changed and fixed by the laws now in force, for the purpose of raising the sum of twenty-one million one hundred forty thousand dollars for annual expenditure for the support of the state government for the seventieth fiscal year; and in the event that the taxes so assessed and levied, together with all available revenues other than those revenues required by law to be used for special uses, shall not raise said sum of twenty-one million one hundred forty thousand

dollars, then said above-named revenues shall be deemed insufficient to meet the annual expenditures of the state for the seventieth fiscal year, which deficiency is hereby declared to be the difference between the amount of taxes assessed and levied upon the property and in the manner and upon the rates of taxation as hereinbefore specified, together with all other state revenues, other than those revenues required by law to be used for special uses, and said sum of twenty-one million one hundred forty thousand dollars, then said state board of equalization, in accordance with the provisions of subdivision *e* of said section fourteen of article thirteen of the constitution of the state of California, at the time provided in section three thousand six hundred ninety-six of the Political Code, shall fix such an ad valorem rate of taxation for said seventieth fiscal year upon each one hundred dollars in value of taxable property, upon all the property of the state of California not exempt from taxation under the law and subject to taxation for state purposes on the seventh day of November in the year one thousand nine hundred ten, as, after allowing five per cent for delinquencies, will raise for said seventieth fiscal year, the amount of said deficiency.

§ 3. **Tax to meet deficiency levied on what property.** Any tax so levied and collected to meet a deficiency in state revenues for either of said fiscal years shall be assessed, levied and collected on all property in the state, not exempt from taxation, including the classes of property enumerated in section fourteen of article thirteen of the constitution of this state, under the provisions of the Political Code relating to the assessment, levy and collection of state and county taxes as said provisions were in force on the seventh day of November in the year one thousand nine hundred ten.

§ 4. **In effect immediately.** This act, inasmuch as it provides for a tax levy for the usual current expenses of the state shall, under the provisions of section one of article four of the constitution of the state of California, take effect immediately.

TITLE 564.

TEHAMA COUNTY.

ACT 4067j.

Charter of. [Stats. 1917, p. 1877.]

TITLE 567.

TENEMENT HOUSES.

ACT 4098.

An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof and repealing an act entitled, "An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and

counties, and to provide penalties for the violation thereof," approved April 16, 1909, Statutes of California of 1909, page 948. [Approved April 10, 1911. Stats. 1911, p. 860.]

The entire act was amended June 13, 1913; Stats. 1913, p. 737; and again May 29, 1915; Stats. 1915, p. 952. Repealed 1917; Stats. 1917, p. 1473. See next act.

ACT 4098a.

An act to regulate the erection, construction, reconstruction, moving, alteration, maintenance, use and occupancy of tenement houses, and the maintenance, use and occupancy of the premises and land on which tenement houses are erected or located, in all parts of the state of California, including incorporated towns, incorporated cities, and incorporated cities and counties, and to provide penalties for the violation thereof; and repealing an act entitled "An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof, and repealing an act entitled 'An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof,' approved April 16, 1909, Statutes of California of 1909, page 948," approved April 10, 1911, Statutes of California of 1911, page 860, and approved June 13, 1913, Statutes of California, 1913, page 737, and approved May 29, 1915, Statutes of California, page 952, and all acts amendatory thereof.

[Approved May 31, 1917. Stats. 1917, p. 1473. In effect September 1, 1917.]

§ 1. **Title.** This act shall be known as the "state tenement house act" and its provisions shall apply to all parts of the state of California, including incorporated towns, incorporated cities, and incorporated cities and counties.

§ 2. **Duty of building department. Duty of housing department. In case no such departments. Enforcement. Power of commission of immigration and housing.** It shall be the duty of the "building department" of every incorporated town, incorporated city, and incorporated city and county, to enforce all the provisions of this act pertaining to the erection, construction, reconstruction, moving, conversion, alteration and arrangement of tenement houses and to issue the certificate of "final completion" hereinafter provided.

It shall be the duty of the "housing department" or if there is no housing department the health department of every incorporated town, incorporated city, and incorporated city and county to enforce all of the provisions of this act pertaining to the maintenance, sanitation, ventilation, use and occupancy of tenement houses after said tenement houses have been erected, constructed, or altered, as the case may be, and the certificate of "final completion" has been issued by the building department, and to issue the "permit of occupancy" as hereinafter provided.

In the event that there is no building department or no housing department or health department in an incorporated town, incorporated city or incorporated city and county, it shall be the duty of the officer or officers who are charged with the enforcement of ordinances and laws regulating the erection, construction or alteration of buildings, or the maintenance, sanitation, ventilation or occupancy of buildings, or of the police, fire or health regulations in said incorporated town, incorporated city or incorporated city and county to enforce all of the provisions of this act.

In every county it shall be the duty of the officer or officers who are charged with the enforcement of ordinances or laws regulating the erection, construction or alteration of buildings, or of the maintenance, sanitation, occupancy and ventilation of buildings, or of the police, fire or health regulations in said county, to enforce all of the provisions of this act outside of the limits of any incorporated town or incorporated city.

Every incorporated town, incorporated city, or incorporated city and county in the state of California shall have, and it is hereby empowered and given authority to designate and charge by ordinance any other department or officer than the department or officers mentioned herein, with the enforcement of this act, or any portion thereof.

The commission of immigration and housing of California shall have, and it is hereby empowered and given authority to enforce the provisions of this act, which do not pertain to the actual erection, construction, reconstruction, moving, alteration or arrangement of tenement houses in all incorporated towns, incorporated cities and incorporated cities and counties, and counties in the state of California, whenever said commission finds or discovers a violation or violations of the provisions of this act and notifies the local department or officer, or departments or officers who are charged with the enforcement of the provisions of this act, in writing, of such violation or violations, and the said local department or officer, or departments or officers, fail, neglect or refuse to enforce the provisions of the said act within thirty days thereafter; provided, however, that the said commission of immigration and housing of California shall enforce the provisions of this act only in the instances specified in said written notice.

§ 3. **Unlawful to construct tenement house contrary to act.** It shall be unlawful for any person, firm or corporation, whether as owner, agent, contractor, builder, architect, engineer, superintendent, foreman, plumber, tenant, lessee, lessor, occupant, or in any other capacity whatsoever, to erect, construct, reconstruct, alter, build upon, move, convert, use, occupy or maintain, or to cause, permit or suffer to be erected, constructed, reconstructed, altered, built upon, moved, converted, used, occupied or maintained any tenement house or any portion thereof contrary to the provisions of this act, or to commit or maintain or cause or permit to be committed or maintained any nuisance in or upon any tenement house or any portion thereof, or any of the premises, yards or courts which are a part thereof, or which are required by the provisions of this act; or to do or cause to be done, or to use or cause to be used, any privy, sewer, cesspool, plumbing or house drainage affecting the sanitary condi-

tion of any tenement house or any portion thereof, or of the premises thereof, contrary to any of the provisions of this act.

§ 4. **Alterations.** It shall be unlawful for any person to make any alterations or changes, or reconstruction work of any kind whatsoever, to any tenement house erected prior to the passage of this act, or to any tenement house hereafter erected, or to increase the height or the percentage of the lot occupied, in any manner which would be inconsistent with any of the provisions of this act, or in violation of the said provisions of this act, or in any manner to diminish the size of the yards, courts or shafts or the size of windows or skylights, or to remove any stairway or fire escape, or to obstruct the egress from such building or from the hallways or stairways, or to do anything that would affect the ventilation and sanitation of the building, contrary to any of the provisions of this act.

§ 5. **Building converted to use as tenement house. Building moved. Building reconstructed.** A building not erected for, or which is not used as a tenement house at the time of the passage of this act, if hereafter converted to or altered for such use, shall thereupon become subject to all of the provisions of this act affecting tenement houses hereafter erected.

A building used as a tenement house at the time of the passage of this act, if moved, shall be made to conform to all of the provisions of this act affecting tenement houses hereafter erected, in so far as they pertain to the percentage of lot occupied and the size of outer courts, inner courts bounded by a lot line, and yards.

It shall be unlawful to reconstruct any tenement house which is hereafter damaged by fire or the elements to an extent in excess of fifty-one (51) per cent of its physical proportions, unless the said building is made to conform to all of the provisions of this act affecting tenement houses hereafter erected.

§ 6. **Penalty for violation. Procedure.** Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment, and in addition to the penalty therefor, shall be liable for all costs, expense and disbursements paid or incurred by the department, by any of the officers thereof, or by any agent, employee or contractor of same, in the prosecution of such violation. The costs, expense and disbursements by this section provided shall be fixed by the court having jurisdiction of the matter.

Except as herein otherwise specified, the procedure for the prevention of violations of this act, for the vacation of tenement houses or premises unlawfully occupied, or for the abatement of a nuisance in connection with a tenement house or the premises thereof, shall be as set forth in the charter and ordinances of the municipality in which the procedure is instituted.

§ 7. Permit to erect tenement house. Application. Affidavit. Permit issued. Revocation. Plans kept on premises. Permit for nominal alterations. Expiration of permit. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, or alteration of a tenement house, or to move or to build upon a tenement house, or to convert a building or any portion thereof into use as a tenement house, without first obtaining a permit in writing so to do from the department charged with the enforcement of this act. Any person, firm or corporation desiring such a permit shall file an application therefor with the department charged with the enforcement of this act. Said application shall give a detailed statement in writing, verified under oath by the person making the same, of the erection, construction, reconstruction, moving, conversion or alteration, as the case may be, upon blanks or forms to be furnished by the said department. The said application must be accompanied with a full, true and complete set of the plans of the tenement house or alteration, or work proposed, as the case may be, together with a set of specifications describing the materials proposed to enter into the construction of the proposed work, also a plan of the lot on which such building is proposed to be erected, constructed, reconstructed, converted, altered, or moved, as the case may be. Such statement shall give in full the name and address by street and number of the owner or owners, also the name and address of the architect and of the contractor, if there be such an architect or contractor; also shall give such other data and information as in the judgment of the department charged with the enforcement of this act is deemed necessary.

The affidavit to said application shall allege that the plans and specifications are true and contain a correct description of the proposed tenement house, lot and proposed work. If any person other than the owner makes such affidavit, such person shall not be recognized except that he allege in his affidavit that he is authorized and empowered by the said owner to act for him and to sign the required affidavit. Said department charged with the enforcement of this act shall cause all such plans, specifications and statements to be examined, and if it appears that they conform to the provisions of this act, shall then issue a permit to the person submitting the same. Said department may, from time to time, approve changes in any plans, specifications or statements previously approved by it; provided, that all changes when so made shall be in conformity with the provisions of this act. Said department shall have the power to revoke or cancel any permit or approval that it has previously issued in case of any refusal, failure or neglect of the person to whom such permit or approval has been issued to comply with any of the provisions of this act, or in case any false statement or misrepresentation is made in any of the said plans, specifications or statements submitted or filed for such permit or approval. The erection, construction, reconstruction, moving, alteration or conversion of any such tenement house, as the case may be, shall be made in accordance with the plans, specifications and statements submitted or filed and for which the permit is issued.

A true copy of the plans, specifications and other information submitted or filed, upon which a permit is issued, with the approval of the department with which they are filed, stamped or written thereon shall be kept upon the premises of the tenement house or work for which the said permit is issued, from the commencement of the said building or work to the final completion of same, and shall be subject to inspection at all times by proper authorities.

The department charged with the enforcement of this act may, at its discretion, issue a permit in case of nominal alterations or repairs, when application is made therefor, in writing, by the owner or his agent, when the making of said nominal alterations and repairs do not affect any structural feature or the sanitation or the ventilation of the tenement house, without requiring the filing of plans or specifications.

The issuance or granting of a permit or approval by the department charged with the enforcement of this act under the authority of this section shall not be deemed or construed to be a permit or an approval of the violation of any of the provisions of this act.

Every permit or approval which is issued by the department charged with the enforcement of this act, but under which no work has been done within ninety days from the date of issuance, or where work has been suspended for a period of ninety days, shall expire by limitation and a new permit shall be obtained before the work may be done.

§ 8. "Certificate of final completion" and "permit of occupancy." Renewal of permit of occupancy. Certificate issued. Permit issued. Tenement house occupied without permit nuisance. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to occupy or to permit to be occupied, any tenement house hereafter erected, constructed, reconstructed, altered, converted or moved, as the case may be, or any portion thereof, for human habitation until the issuance of a "certificate of final completion" and a "permit of occupancy" by the department or departments charged with the enforcement of this act.

It shall also be unlawful to occupy any existing tenement house until a permit of occupancy has been issued by the department designated to issue such permit.

Every permit of occupancy shall be renewed each calendar year by the department designated to issue the said permit; provided, that no structural alterations or changes have occurred since the issuance of the certificate of final completion; and provided, that all other provisions of this act have been complied with.

Any person desiring a certificate shall file a notice with the department charged with the enforcement of this act. Said department shall cause an inspection to be made of the said tenement house or portion thereof, or work described in the said notice, within ten days after written application therefor, and shall issue a "certificate of final completion" if it is found that all the provisions of this act, regulating the erection, construction, alteration or moving, as the case may be, have been complied with.

The department charged with the enforcement of this act and designated to issue the permit of occupancy shall issue the said "permit of

occupancy" upon application, in writing, therefor by the owner or his agent, and upon the filing by the owner or his agent of such statements or records required by the department, after the "certificate of final completion" has been issued; provided, that no violations have occurred since the issuance of the certificate of final completion, or, in the case of a tenement house erected prior to the passage of this act, and for which no certificate of final completion has been issued, then after the said department has causd an inspection to have been made of the said tenement house and has found that all of the provisions of this act applying to such tenement house have been complied with.

All permits and certificates shall be made in duplicate and a copy shall remain on file in the department issuing them.

Any tenement house hereafter erected, altered, converted or moved, which is occupied, or any portion thereof which is occupied for human habitation, prior to a "certificate of final completion" or a "permit of occupancy" being issued, shall be deemed a nuisance, and the department or departments charged with the enforcement of this act may cause it to be vacated until the said certificate of completion and permit of occupancy have been obtained in accordance with the provisions of this act.

§ 9. Power to enter tenement house. The department or departments charged with the enforcement of this act in any incorporated town, incorporated city, incorporated city and county, or county, and the authorized officers, agents or employees of such department or departments, may, whenever necessary, enter tenement houses or portions thereof, or the premises thereof, within the corporate limits of such towns, cities, cities and counties, or counties, for the purpose of inspecting such buildings, in order to secure compliance with the provisions of this act and to prevent violations thereof.

The members of the commission of immigration and housing of California and the agents, officers or employees of said commission may, whenever necessary, enter tenement houses or portions thereof, or the premises thereof, for the purpose of inspecting such buildings in order to secure compliance with the provisions of this act and to prevent violations thereof.

The owner or his authorized agent may, whenever necessary, enter tenement houses, or portions thereof, or the premises thereof, owned by him, to carry out any instructions or to perform any work required to be done by the provisions of this act.

§ 10. Definitions. For the purpose of this act, certain words and phrases are defined as follows, unless it shall be apparent from their context that they have a different meaning:

Words used in the singular include the plural, and the plural, the singular.

Words used in the present tense include the future.

Words used in the masculine gender include the feminine, and the feminine, the masculine.

Words "building department," "housing department," "health department," "department charged with the enforcement of this act," "fire

commissioner," shall be construed as if followed by the words, "of the incorporated town, incorporated city, incorporated city and county, or county," as the case may be, in which the tenement house is situated.

"Apartment" is a room or suite of rooms which is occupied, or is intended or designed to be occupied by one family for living and sleeping purposes.

"Approved" means whatever material, appliance, appurtenance, or other matter meets the requirements and approval of the department charged with the enforcement of this act, or which is approved by local ordinance of the municipality in which the building is situated, or any appliance, appurtenance, or other matter which conforms to the requirements of, and bears the approval of the "national board of fire underwriters"; provided, however, that no such material, appliance, appurtenance, or other matter shall be deemed "approved" for use where, or in such a manner as would be inconsistent with the intent, or specific provisions of this act.

"Basement" is any story or portion thereof partly below the level of the curb or the actual adjoining ground level, the ceiling of which in no part is less than seven feet above the curb level or actual adjoining ground levels. If the adjoining ground is excavated to or below the curb level, or to or below the adjoining natural ground level, such excavated space shall have not less than the minimum width and length required in this act for outer courts.

Every basement is a story.

"Building" is a tenement house.

"Building department" means the commissioner of buildings, superintendent of buildings, chief inspector of buildings, or any officer or department charged with the enforcement of ordinances and laws regulating the construction and alteration of buildings or structures.

"Cellar" is any story or portion thereof, the ceiling of which in any part is less than seven feet above the curb level and actual adjoining ground levels.

"Court" is an open, unoccupied space other than a yard on the lot on which is situated a tenement house. A court, one entire side or end of which is bounded by a front yard, a rear yard or a side yard, or by the front of lot, or by a street or a public alley, is an "outer court." Every court which is not an "outer court" is an "inner court."

Every court shall be open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are windows from rooms or apartments abutting the said court, except that a cornice on the building may extend into an "outer court" two inches for each one foot in width of such court, and a cornice may extend into an "inner court" one inch for each one foot in width of such court.

"Curb level" is the curb level opposite the center of the "front of lot."

Wherever the word "department" is used it means the building department, the housing department, the health department or such other department or officer, or departments or officers, who are charged with the enforcement of the provisions of this act.

"Family" is one person living alone or a group of two or more persons living together in an apartment, whether related to each other by birth or not.

"Fireproof tenement house" is a building wherein all the exterior and interior loads or strains are transmitted to the foundation by means of concrete, reinforced concrete, brick, stone, or by means of a skeleton framework of steel or iron, the exterior walls, inner court walls and roof constructed of concrete, reinforced concrete, brick, stone or hollow terra cotta tile; where all the structural steel or iron is thoroughly fireproofed by concrete, cement plaster, tile, brick or sandstone, not less than two inches thick; where all the interior partitions are constructed of either hollow terra cotta tile blocks, gypsum blocks, brick, concrete, reinforced concrete, or of metal studs lathed with metal lath and plastered not less than three-quarters inch thick including the lath, or of metal studs lathed with approved plaster board and plastered not less than three-quarters inch thick including the plaster board, or constructed of wire glass not less than one-fourth inch thick, set in metal frames and sash, and all other materials used in the said building are of approved incombustible material, except that the glass in windows, transoms, or doors may be plain glass, and except that doors, frames, sash and the usual trim of rooms, hallways, corridors and passageways may be of wood, and except that wood floors may be placed on top of the floors constructed of incombustible materials, except in the stairways and public hallways.

"Housing department" is any department or commission charged with the enforcement of ordinances or laws regulating the occupancy and maintenance of tenement houses, hotels or dwelling-house buildings; and where no such department is maintained, shall be deemed to be the health commissioner, the department of health, health officer, or similar department charged with the enforcement of laws and ordinances relating to the protection of the public health.

"Kitchen" is any room in any apartment used or intended or designed to be used for cooking purposes and for the preparation of food.

"Lot" is a parcel or area of land on which is situated a tenement house, together with the land, yards, courts and unoccupied spaces for such a tenement house as required by this act; all of which land shall be owned by or be under the absolute lawful control and in the lawful possession of the tenement house.

A lot situated at the junction of two or more intersecting streets, with a boundary line thereof bordering on each of the two streets, is a "corner lot." All parts of the width of such a corner lot which are distant more than seventy-five feet from the junction point of the two or more intersecting streets, shall be deemed to be an "interior lot." The owner or his authorized agent may designate either street frontage as being the front of such corner lot for the purpose of determining the width thereof.

A lot which has only one boundary line bordering on a public street is an "interior lot."

"Rear lot" is a parcel or area of land having no boundary line bordering on a street, or having less than one-half of its width as a boundary line bordering on a street.

"Front of lot" is the boundary line of lot bordering on the street. In case of a corner lot, either of such boundary lines may be the "front of lot."

"Rear of lot" is the boundary line of lot opposite the "front of lot."

"Depth of lot" is the mean distance from the "front of lot" to the "rear of lot."

"Nuisance" embraces public nuisance as known at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health, and shall also embrace the overcrowding with occupants of any room, insufficient ventilation, or illumination, or inadequate or insanitary sewerage or plumbing facilities, or uncleanliness, and whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

"Occupied space" is all the space covered by a tenement house, including outside stairways, platforms, fire-escapes, balconies, fire-towers, chimneys, stacks, vent shafts, not exceeding thirty-two square feet in area, cornice, or any part thereof, which projects into an inner court more than one inch for each one foot in width of such court, or which projects into an outer court or yard more than two inches for each one foot in width of such outer court or a yard, except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may extend not exceeding four feet beyond the exterior walls of the building into a front or rear yard, and except that a retaining wall may extend not to exceed twelve inches into a yard or court. For the purpose of determining occupied space, the area of the building shall be taken at the lowest story or portion thereof used for living or sleeping purposes.

"Person" is a natural person, his heirs, executors, administrators or assigns; and also includes a firm, partnership or corporation, its or their successors or assigns.

"Public hallway" is a hallway, corridor, passageway or vestibule not within an apartment, and includes stairways, landings and platforms.

"Rear tenement house" is a tenement house on a "rear lot."

"Semi-fireproof tenement house" is a building with all exterior walls and walls of inner and outer courts constructed of brick, stone, concrete, reinforced concrete or hollow terra cotta tile; except that the walls of an inner court, which court is surrounded on four sides by the same building, may be constructed as provided in this act for such inner courts; interior partitions and floors constructed of approved incombustible materials or of wood, with all ceilings, partitions, soffits of stairways, and outside stringers of open stairways and stair wells metal lathed and plastered not less than three-quarters inch thick including the lath or lathed with an approved plaster board plastered not less than three-quarters inch thick including the plaster board; in which all finished floors, frames, doors and the usual trim of rooms and hallways may be built of wood and the roof of which shall be covered with at least a composition fire-retardant material.

"Shall." Whenever this word is used it shall be mandatory.

"Street" is any public street, alley, thoroughfare or park having a minimum width of sixteen feet, measured from the "front of lot" to the

opposite "front of lot," and which shall have been dedicated or deeded to the public for public use.

"Tenement house" is any house or building, or portion thereof, more than one story in height, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their cooking in the said building; provided, however, that any building not more than two stories in height which is designed, built, rented, leased, let or hired out to be occupied, or is occupied, as the home or residence of not more than four families, and the said building is so arranged that each of the said families live independently of each other, and the building is constructed and arranged so that a separate section is, or may be, kept as a home or residence of a separate family, and each such section has an entirely independent and separate entrance, and if a stairway is required, one such stairway leading to each section from the street or from an outside vestibule on the level of the first floor of said building is a separate stairway, and with no room, hallway, bath-room, water-closet, or kitchen used in common by two or more families occupying the said building, shall be deemed not to come within the definition of a "tenement house."

"Wooden tenement house" is a building which does not fully comply with the requirements for a "fireproof" or a "semi-fireproof" tenement house as defined in this act, and shall include all frame and all veneered buildings.

In every such building all ceilings and walls and partitions of public hallways, soffits of interior stairways and the outside stringers of open stairways, and stair wells shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with an approved plaster board plastered not less than three-quarters inch thick including the plaster board.

"Yard" is a portion of a lot on which is situated a tenement-house and which is unoccupied by the building and extends from the ground up (except where otherwise provided by this act) open and unobstructed to the sky; except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may extend not more than four feet into such yards. If such yard is between the front line of the building and the front boundary line of the lot, it is a "front yard." If it is between the extreme rear line of the building and the rear of the lot, it is a "rear yard." If it extends from the rear yard to the front yard or front of the lot, it is a "side yard."

§ 11. **Front yard.** No tenement house shall hereafter be erected on, or moved on to, a rear lot. No building for any purpose shall hereafter be erected in front of any tenement house unless there shall be left unoccupied a front yard extending from the front of the rear tenement house to the front line of lot bordering on the street.

Such front yard shall not be in any part less in width than fifty per cent of the actual width of the rear tenement house.

§ 12. **Height.** No fireproof tenement house hereafter erected shall exceed one hundred fifty feet in height, nor more than one and one-half

times the width of the widest street to which the lot on which it is situated abuts.

No semi-fireproof tenement house hereafter erected shall exceed six stories at any point, nor more than sixty-five feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

No wooden tenement house hereafter erected shall exceed three stories at any point nor more than thirty-six feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

The width of the street, for this purpose, shall be measured from the extreme front of the building to the front of lot opposite, across the street.

For the purposes of this section a basement is a story.

The height of a fireproof tenement house is the perpendicular distance from the curb level or adjoining ground levels to the highest point of the roof. The height of a semi-fireproof or of a wooden tenement house is the perpendicular distance from the curb level or adjoining ground levels to the lowest point of the finished ceiling of the top story; provided, that in the case of a semi-fireproof tenement house situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed sixty-five feet above the curb level measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed seventy-five feet above the adjoining curb in case of a corner lot, or above the level of the ground in the case of an interior lot, and in the case of a wooden tenement house situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed thirty-six feet above the curb line measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed forty-six feet above the adjoining curb in the case of a corner lot or above the level of the ground in the case of an interior lot.

§ 13. Per cent of lot left unoccupied. On every corner lot on which a tenement house is hereafter erected, at least ten per cent of such lot shall be left unoccupied; provided, however, that if such corner lot extends through from one street to another street, one-half of the narrowest street to which said lot abuts may be considered as a part of the lot in computing the percentage of lot to be left unoccupied; except that if such one-half of the narrowest street is greater than the rear yard required for such tenement house, then only as much of the said street as is required for the rear yard shall be considered as part of the lot for the purpose of computing the percentage of lot to be left unoccupied.

On every interior lot on which a tenement house is hereafter erected, at least twenty-five per cent of such lot shall be left unoccupied; provided, however, that if such interior lot extends through from one street to another street, one-half of the narrowest street to which such lot abuts may be considered as a part of the lot in computing the percentage of lot to be left unoccupied; except that if such one-half of the

narrowest street is greater than the rear yard required for such tenement house, then only as much of the said street as is required for the rear yard shall be considered as part of the lot for the purpose of computing the percentage of lot to be left unoccupied.

§ 14. **Rear yard.** Immediately behind every tenement house hereafter erected there shall be a rear yard extending across the entire width of the lot.

§ 15. **Yard serving two tenement houses. Distance between buildings.** In no event shall any yard or court be made to serve the purpose of two tenement houses hereafter erected, or of an existing tenement house and a tenement house hereafter erected, unless such yard or court, as the case may be, is of the full size required for two tenement houses, and then only in the event that such yard or court, as the case may be, is located on the same lot and owned by or in the absolute lawful control and in the lawful possession of the tenement house it proposes to serve.

Where a tenement house, now or hereafter erected, stands upon a lot, no other building shall hereafter be placed upon the front or rear of that lot, unless the minimum distance between such buildings shall be at least ten feet, and two additional feet shall be added to such minimum distance of ten feet for every story more than one in height of the highest building on such lot.

§ 16. **Depth of rear yard.** The depth of a rear yard shall be measured at right angles from the extreme rear line of the building toward the rear lot line.

§ 17. **Minimum depth of rear yard on interior lot.** On every interior lot on which a tenement house is hereafter erected there shall be provided a rear yard. Such yard shall extend from the ground clear and unobstructed to the sky, and shall extend across the entire width of the lot; except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may extend not more than four feet into such yard. The minimum depth of such rear yard shall be as follows:

Height of building measured from top of wall to floor of yard at point abutting the rear yard	Depth of rear yard
Not exceeding 36 feet	10 feet
Not exceeding 48 feet	11 feet
Not exceeding 60 feet	12 feet
Not exceeding 72 feet	14 feet
Not exceeding 84 feet	16 feet
Not exceeding 96 feet	18 feet
Not exceeding 108 feet	20 feet
Not exceeding 120 feet	22 feet
Not exceeding 132 feet	24 feet
Not exceeding 150 feet	26 feet

Provided, however, that if such interior lot extends through from one street to another street or public alley, one-half of the narrowest street or public alley to which said lot abuts may be considered as a part of the lot in computing the rear yard required by this section.

§ 18. **Minimum depth of rear yard on corner lot.** On every corner lot on which a tenement house is hereafter erected there shall be provided a rear yard. Such yard shall extend from the lowest floor which is used for living or sleeping apartments, clear and unobstructed to the sky, and shall extend across the entire width of such lot; except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may be extended not more than four feet into such yard. The minimum depth of such rear yard shall be as follows:

Depth of corner lot	Depth of rear yard
Not exceeding 100 feet....	Not less than 10 per cent of the depth of the lot nor less than 5 feet, nor less than the mimimum width required for an outer court, based on the number of stories in such building.
Exceeding 100 feet.....	Not less than 10 feet nor less than the minimum width required for an outer court, based on the number of stories in such building.

Provided, however, if such corner lot extends through from one street to another street, or to a public alley, one-half of the narrowest street or public alley to which such lot abuts may be considered as a part of the lot in computing the rear yard required by this section.

§ 19. **Passageway to street.** Every rear yard required by this act and not bordering on a street or public alley and without direct access thereto shall have access to a street or public alley by means of an unobstructed passageway not less than three feet six inches in clear width, nor less than seven feet in clear height; and if such passageway or any portion thereof passes through a building, such portion thereof shall be built of approved incombustible materials, or shall be lathed with metal lath or approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board, or shall be lined with not less than number twenty-six (gauge) galvanized iron, and shall be drained and lighted.

§ 20. **Excavated front yard.** Every front yard which is excavated below the level of the curb or below the adjoining ground level for the purpose of furnishing light and ventilation to a basement shall in no part be less in width and length than required for outer courts.

§ 21. **Width of side yard.** The width of every side yard shall be not less than the width required for an outer court except that the provisions of this act regarding the maximum lengths of an outer court shall not apply to a side yard; provided, that if there is a side yard on both sides of the building, connected one with the other across the rear of the building by the rear yard, then the width of the side yards may be reduced twelve inches.

§ 22. Minimum size of outer court. The minimum size of every outer court for a tenement house hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is an apartment or apartments	Minimum width of court	Maximum length of court
1 or 2 stories	4 ft. 0 in.	16 ft. 0 in.
3 stories	4 ft. 6 in.	25 ft. 0 in.
4 stories	5 ft. 6 in.	30 ft. 0 in.
5 stories	6 ft. 0 in.	35 ft. 0 in.
6 stories	8 ft. 0 in.	35 ft. 0 in.
7 stories	10 ft. 0 in.	40 ft. 0 in.
8 stories	12 ft. 0 in.	40 ft. 0 in.
9 stories	13 ft. 0 in.	40 ft. 0 in.
10 or more stories	14 ft. 0 in.	40 ft. 0 in.

There shall be added to the minimum width of each such outer court six inches for each five feet or fractional part thereof in excess of the maximum length; provided, however, that the maximum lengths herein provided shall not apply when the outer court is bounded on one side for its entire length by a lot line; provided, further, that if an outer court is bounded by a public alley or public park, the width of such public alley or public park may be considered a part of the lot in determining the required width of the outer court.

§ 23. Minimum size of inner court. The minimum size of every inner court for tenement houses hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is an apartment or apartments.	Minimum width of court	Minimum area of court in square feet
1 or 2 stories	6 ft. 0 in.	75 square feet
3 stories	7 ft. 0 in.	120 square feet
4 stories	8 ft. 0 in.	160 square feet
5 stories	12 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more	24 ft. 0 in.	840 square feet

Provided, however, that the minimum size of every inner court which is bounded on one side for its entire length by a lot line may be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is an apartment or apartments.	Minimum width of court	Minimum area of court
1 or 2 stories	5 ft. 0 in.	75 square feet
3 stories	6 ft. 0 in.	120 square feet
4 stories	7 ft. 0 in.	160 square feet
5 stories	9 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more	24 ft. 0 in.	840 square feet

Every inner court hereafter constructed and every inner court or vent shaft now in any tenement house shall be provided with a door or window at or near the bottom thereof, giving sufficient access to such court or vent shaft as to enable it to be properly cleaned out.

§ 24. **Recess.** Every recess from a court, yard or street in a tenement house hereafter erected shall, unless it conforms to the requirements of this act for an inner court, or an outer court, be not less in width than its depth. Every such recess shall be open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are rooms the said recess proposes to serve.

§ 25. **Intakes for inner court. Construction.** Every inner court in a tenement house hereafter erected shall be provided with one or more horizontal intakes at the bottom of the court, as follows:

Inner court areas	Minimum number of intakes	Net aggregate area of intakes
Each not exceeding 300 square feet	One	19½ square feet
Each not exceeding 800 square feet	Two	40 square feet
Each exceeding 800 square feet	Two	60 square feet

Every such intake shall always extend directly to the front of lot or front yard, or rear yard, or to a side yard, or to a street, or to a public alley or public park. Whenever more than one intake is required, one such intake shall extend to the front of lot or front yard, and one to the rear yard, public alley, public park, or to the other street, and the court ends of the air intakes shall be as far apart as possible.

Each such intake shall consist of an unobstructed duct or passageway having a minimum width of three feet in all its parts and a minimum height of six feet six inches.

Every such intake shall be constructed of approved incombustible materials, or shall be lined with at least number twenty-six (gauge) galvanized iron on the inside thereof. Such air intakes may be closed

at each end with a gate or grill having not less than seventy-five per cent of open work.

In case the inner court does not extend below the second floor level, then each such air intake may consist of an unobstructed open duct, constructed of approved incombustible materials or lined with at least number twenty-six (gauge) galvanized iron on the inside thereof, having an interior area of not less than nineteen and one-half square feet, and in no dimension less than twelve inches, and covered at each end with a wire screen of not less than one inch mesh.

Every air intake shall be drained and so constructed and arranged as to be readily cleaned out.

§ 26. **Cellars.** In no tenement house shall any room in the cellar be constructed, altered, converted or occupied for living or sleeping purposes.

Every cellar shall be illuminated and ventilated. The walls and floor of every cellar hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary, and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 27. **Basements.** In no tenement house shall any room in the basement be constructed, altered, converted or occupied for living or sleeping purposes, unless such room conforms to all of the requirements of this act for rooms in other parts of the building and that the ceiling of each such room be in all parts not less than seven feet above the adjoining level.

Every basement shall be illuminated and ventilated. The walls and floors of every basement hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary, and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 28. **Ventilation beneath floor. Floor made impervious to rats.** In every tenement house hereafter erected, the lowest floor thereof shall be at least eighteen inches above the surface soil adjoining and under the floor, and the entire space under such floor shall be kept dry, drained, clean and free from any accumulation of rubbish, debris or filth.

Such space under the floor shall be inclosed and provided with a sufficient number of openings with removable screens or similar provisions of a size to insure ample ventilation; provided, however, that in any such building the lowest floor thereof may be less than eighteen inches above the surface soil, but in no case less than six inches, except where masonry floors are laid directly on the soil, if the said floor is made impervious to the ingress of rats or other vermin as follows:

(a) Foundation walls shall be constructed of concrete or of brick or stone or other masonry laid in a good mortar or constructed of some other equally rat-proof material.

(b) The said foundation walls shall be not less than six inches in thickness at the top nor less than twelve inches in thickness at the bottom, nor extend less than twelve inches below the surface soil, and, ex-

cept where masonry floors are laid directly on the soil, shall extend not less than six inches above the surface soil.

(c) Every opening in the foundation walls, for ventilation or for other purposes, shall be made rat proof with suitable metal screens or with some other similar rat-proof material. Door or window openings in such walls shall have tight-fitting doors or windows.

(d) The said lowest floor or differing levels thereof, forming a complete floor between the outside walls of the building, shall be constructed either of masonry, or covered with concrete not less than one and one-half inches thick, or constructed of two layers of flooring with a layer of galvanized iron or galvanized iron wire cloth or other approved equally as rat-proof material placed between the two layers of flooring. Or, in lieu of the floor being constructed as herein prescribed, the entire ground area under the floor shall be covered with concrete not less than two inches thick, except where the surface of the soil is composed of rock. The rat-proofing material shall always extend under the plates of the exterior walls and supporting partitions.

(e) All openings throughout the said floor for chimneys, plumbing, water-pipes, or for any other purpose, shall be closed up tight in the same manner and with the same kind of materials as required under the plates of the exterior walls and supporting partitions, and if the rat-proofing material used for closing of openings is other than masonry, it shall extend beyond and underlap the flooring all around the opening, not less than two inches.

§ 29. **Floor area of rooms. Width and height. Water-closets, etc. Curtains.** In every apartment in every tenement house hereafter erected there shall be at least one room containing not less than one hundred twenty square feet of superficial floor area, and every other room shall contain at least ninety square feet of superficial floor area, except water-closet, bath or slop-sink compartments, and except kitchens, closets, recesses from rooms, or dressing-rooms.

Every kitchen shall contain not less than fifty square feet of superficial floor area.

Every room shall at every point be not less than seven feet in width, nor less than nine feet in height, measured from the finished floor to the finished ceiling; except that attic rooms and rooms where sloping ceilings occur need be nine feet in height in but one-half the area of the room; provided, however, that the provisions of this paragraph shall not apply to water-closet, bath or slop-sink compartments, nor to closets, nor to recesses from rooms, nor to dressing-rooms, nor shall the provisions of this paragraph as to minimum width apply to kitchens.

Every water-closet compartment shall be not less than thirty-six inches in clear width, and every such water-closet compartment, bath or slop-sink compartment, or closet, or recess from a room, or dressing-room, shall have a height of not less than seven feet six inches, measured from the finished floor to the finished ceiling. Every closet, recess from a room, or dressing-room, which contains more than twenty-five square feet of superficial floor area (built-in dressers, clothes-presses and similar features which are a substantial part of the structure shall not be deemed to be a part of the floor area of a closet, recess from a

room) or dressing-room shall conform to all of the provisions of this act as to rooms, and shall contain not less than ninety square feet of superficial floor area.

No part of any room in any tenement house shall hereafter be in closed or subdivided wholly, or in part, by a curtain, portiere, fixed or movable partition, or other contrivance or device, for any purpose contrary to any of the provisions of this act.

Entertainment, amusement or reception rooms hereafter constructed, altered or converted in any tenement house shall conform to the provisions of section thirty-three of this act.

§ 30. **Windows. Opening into vent shaft. Opening through porch.** In every tenement house hereafter erected every room, kitchen, and every water-closet compartment, toilet or shower-room, and bath or slop-sink room (except in the cellar), shall have at least one window of the area hereinafter required opening directly upon a street, or upon a yard or court, of the dimensions specified in this act and located on the same lot.

All windows required by this act shall be located so as to properly light all portions of the rooms, and shall be made so as to open in all parts and so arranged that at least one-half of each such window may be opened unobstructed; provided, however, that the windows required by this section in a water-closet compartment, toilet or shower-room, and bath or slop-sink room, may open directly into a vent shaft, such vent shaft to be of the minimum size and constructed of the materials and in the manner prescribed by section sixty-one of this act; provided, further, that windows required to open on to a street, yard, or an outer court, except windows from kitchens, may open through porches, provided that said porches do not exceed seven feet in depth measured at right angles to the windows and that at least seventy-five per cent of the entire side of the porch, bounded by the street, yard, or outer court, is left open except that the open space may be inclosed with mosquito screens.

§ 31. **Window area.** In every tenement house hereafter erected the total window area in each room except in a water-closet compartment, bath, toilet, slop-sink room or shower-room shall be at least one-eighth of the superficial floor area of the room.

The aggregate window area in each room shall be not less than twelve square feet, and no single window shall be less than six square feet in area.

All measurements for window area shall be taken to outside of sash.

§ 32. **Windows.** In every tenement house hereafter erected each window in a water-closet compartment or bath, toilet or slop-sink room, or shower-room, shall be not less than three square feet in area. The aggregate area of windows for each such compartment or room shall be not less than six square feet. In each such compartment or room containing more than one water-closet, bath, urinal, or slop-sink, the aggregate window area shall be equivalent to three square feet for each water-closet, bath, urinal or slop-sink therein, except that at no time

need the aggregate window area exceed one-fourth of the superficial floor area of such compartment or room.

§ 33. **Windows. Ventilation by fan exhaust system. Penalty for failing to maintain system. Height of amusement rooms.** In every tenement house hereafter erected, the total window area in each room used for the purpose of amusement, entertainment or as a reception-room, or any room used for similar purposes, which room has a superficial floor area not exceeding one hundred eighty square feet, shall be at least one-eighth of the superficial floor area of such room.

Every such room which has a superficial floor area exceeding one hundred eighty square feet shall have an aggregate window area not less than that required for a room of one hundred eighty square feet of superficial floor area.

Amusement, entertainment or reception-rooms and rooms used for similar purposes, in lieu of being provided with windows, as in this section prescribed, may be provided with a fan exhaust system of ventilation. Such fan-exhaust system of ventilation shall consist of independent inlet ducts, extending from the outer air to each such room and exhaust ducts extending from each such room to the outer air above the highest roof of the building.

All of the inlet ducts and exhaust ducts shall be constructed of galvanized iron or other smooth-surfaced, nonabsorbent material and so arranged that they may be readily cleaned out.

The exhaust ducts shall always be connected to an exhaust fan mechanically operated, so designed and operated as to provide a complete change of air in not to exceed fifteen minutes for each such room.

Any person in charge of a building in which a system of fan-exhaust ventilation, as in this section is required, who fails, neglects or refuses to operate and maintain the said system of ventilation in good order and repair so that the ventilation (complete change of air) herein specified is provided in each such room at all times, shall be deemed guilty of a misdemeanor and subject to all of the penalties fixed by this act.

Every amusement, entertainment or reception room, or any room used for similar purposes, shall have a minimum height between the finished floor and the finished ceiling of not less than nine feet. No such room or part thereof shall be used for living or sleeping apartments, except that said room or part thereof complies with all of the other provisions of this act, for living and sleeping apartments.

§ 34. **Windows in public hallway. Skylight. French windows.** In every tenement house hereafter erected, every public hallway on any floor where there are more than three apartments shall have at least one window opening directly upon a street, or upon a yard or a court of the dimensions specified in this act and located on the same lot; such windows shall be at the end of the public hallway and placed so as to secure the maximum light into the hallway; provided, however, that in tenement houses not exceeding two stories in height, the public hallway may, in lieu of such windows, be lighted and ventilated by one or more skylights constructed in accordance with the provisions of this act.

Every window required by this act in a public hallway shall be not less than twenty-nine inches in clear width, nor less than fifty-eight inches in height, and the finished sill of same shall not be more than thirty inches above the adjoining finished floor. Every such window shall be made so as to open and so arranged that at least one-half of the window may be opened unobstructed.

Every skylight provided for in this section shall have an effective horizontal area of glass of not less than fifteen square feet, and shall have ridge ventilators or fixed or movable louvres so as to provide a ventilating area of not less than five hundred square inches. Such skylights shall be so located that no portion of the hallway be distant more than twenty feet (measured from a vertical line), from a skylight opening.

Any part of a public hallway which is offset, recessed, or cut off from any other part of a hallway where such offset or recess is more in length than one and one-half times the width of the public hallway from which it offsets or recesses, shall be deemed a separate public hallway within the meaning of this section.

French windows or doors, if arranged to open and glazed to give the areas of opening and glass required by this act for windows in public hallways, may be used in lieu of windows therein.

§ 35. Ventilating skylight. In every tenement house two or more stories in height hereafter erected, where there are more than three apartments on any one floor, there shall be provided at the roof over each stairway a ventilating skylight, placed directly as practicable over same, having a minimum effective horizontal area of glass at least twenty square feet in area for buildings two stories in height, and the area of glass in such skylight shall be increased at a ratio of six square feet for each additional story in height. In every such skylight the ventilating area shall be not less than five hundred square inches.

Every such skylight and the ventilating openings and the shutters and the closing and opening devices for the ventilating openings shall be made of approved incombustible materials, and so arranged that the entire ventilating area may be readily opened from at least the topmost and first story levels, except that in tenement houses not exceeding four stories in height the ventilators may be arranged so as to open from at least the first story, or the ventilators may be fixed permanently in an open position.

Skylights as in this section prescribed may be omitted in case that windows are provided of the size fixed by section thirty-four hereof and located adjoining the stairways, and that each window adjoining the stairway be provided with an open louvre or ventilator providing a ventilating area of not less than one hundred square inches or such louvre or ventilator may be placed in the roof over the stairway, in which event the ventilating area shall be not less than five hundred square inches.

Whenever a skylight is required as in this section provided there shall be constructed a stair well, the clear open area of which shall be at each floor equal to one-third of the area of glass in the skylight.

§ 36. Water-closets. In every tenement house hereafter erected, every apartment shall be so arranged that access may be had to every living-

room, and to at least one water-closet compartment, without passing through a bedroom; provided, however, that nothing in this section shall be so construed as to prohibit passing through a bedroom in going from a kitchen to a bathroom or water-closet compartment.

§ 37. **Water-closet for each apartment. Waterproof floor.** In every tenement house hereafter erected there shall be installed one water-closet within each apartment located in a separate compartment or located in a compartment with a bathtub, shower or lavatory, used exclusively by the occupants of the apartment.

No door or other opening to a water-closet compartment shall open from or into any room in which food is prepared or stored. The walls inclosing a water-closet compartment shall be well plastered or constructed of some nonabsorbent material, except that the ordinary wood trim of openings may be used in such compartment. Every such compartment shall be provided and equipped with a full door, properly hung, and provided with a lock or bolt to lock same.

The floor of every such water-closet compartment shall be made waterproof with asphalt, tile, marble, terrazzo, cement, or some other similar nonabsorbent material, and such waterproofing shall extend not less than six inches on the vertical walls of the room. No water-closet fixture shall be inclosed with woodwork.

§ 38. **In tenement house already erected. Sewer connection required.** In every tenement house erected prior to the passage of this act there shall be provided at least one water-closet in a separate compartment, located on the public hallway of the same floor, for every three apartments or fractional part thereof on such floor which are not provided with private water-closets. Where two or more water-closets are required by the provisions of this section to be located on a public hallway, one of such water-closets shall be distinctly marked "for men," and one of the water-closets distinctly marked "for women"; provided, however, that the housing department charged with the enforcement of this act may exempt any tenement house existing at the time of the passage of this act from fully complying with the provisions of this paragraph, when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof or to the sanitation of the said tenement house or premises.

Nothing in this section shall be construed as permitting such exemptions to apply to any addition or extension to any tenement house.

Every water-closet hereafter placed in a tenement house erected prior to the passage of this act shall comply with every provision of this act relative to water-closets installed in tenement houses hereafter erected, except that if a water-closet is installed in the top story of any such building, the compartment in which it is installed may be ventilated by a skylight with fixed louvres in lieu of a window; provided, however, that a new water-closet may be installed to replace a defective or antiquated fixture in the same location.

Every tenement house erected prior to the passage of this act, or hereafter erected, where a connection with the sewer is possible, shall discontinue the use of any school sink, privy vault, or any similar receptacle

used to receive fecal matter, urine or sewage, and every such receptacle shall be completely removed and the place where it was located be properly disinfected. All such receptacles shall be replaced by individual water-closets of durable nonabsorbent material, properly connected, trapped, vented and provided with flush tanks, the same as is required, by the provisions of this act, in tenement houses hereafter erected.

§ 39. Bathtub or shower. In every tenement house hereafter erected there shall be a bathtub or shower within each apartment, and such bathtub or shower shall be located in a separate compartment, or there may be provided one such bathtub or shower in a separate compartment for every three such apartments which are not provided with private baths or showers; provided, that said bathtub or shower is on the same floor and is accessible from each apartment through the public hallway.

In every tenement house hereafter erected there shall be at least one kitchen sink within each apartment.

The walls, floors and openings to every bath, shower or slop-sink room hereafter constructed shall conform to all of the provisions of this act relative to the waterproofing of the walls and floors, and of the construction of the doors of water-closet compartments in tenement houses hereafter erected.

§ 40. In tenement house already erected. In every tenement house erected prior to the passage of this act there shall be provided at least one bathtub or shower in a separate compartment, located on the same floor, for every five apartments, or fractional part thereof, which are not provided with private baths or showers, on each such floor, and there shall be provided at least one kitchen sink in each apartment; provided, however that the department charged with the enforcement of this act may exempt any tenement house existing at the time of the passage of this act from fully complying with the provisions of this section when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof or to the sanitation of the said tenement house or premises; provided, further, that no such exemption shall apply to any addition or extension to a tenement house.

§ 41. Running water. Sewer connection. In every tenement house hereafter erected every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

Every plumbing fixture affecting the sanitary drainage system in tenement houses hereafter erected, shall be properly connected with the street sewer, if a street sewer exists in the street abutting the lot on which the building is located and is ready to receive connections. When it is impracticable to connect such plumbing fixtures with a street sewer, then the plumbing fixtures shall be connected and drained into a cesspool constructed satisfactorily to the department charged with the enforcement of this act; or some other means of sewage disposal satis-

factory to the department charged with the enforcement of this act may be made until such time as it may become practicable and possible to connect with the street sewer.

§ 42. **In tenement house already erected.** In every tenement house erected prior to the passage of this act, every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

§ 43. **In case no running water. Privy.** Water-closets, baths, showers, sinks, slop-sinks, faucets and other plumbing fixtures required by this act need not be installed in the event that the tenement house hereafter erected or an existing tenement house, as the case may be, is situated where there is no running water and where there is no practical means of sewage disposal, until such time as it becomes practicable and possible to obtain running water and means of sewage disposal; provided, in every such case the department charged with the enforcement of this act shall decide whether or not it is practicable and possible to provide running water and proper means of sewage disposal. A special permit in writing shall be obtained in every such case from the department charged with the enforcement of this act, which permit shall be made in duplicate, and a copy thereof shall remain on file in the department issuing it; provided, further, that proper, separate toilet facilities for each sex shall be provided for the use of the occupants of such building. Such facilities shall be made sanitary. A privy, or toilet other than a water-closet, erected under the authority of this section shall consist of a pit at least three feet deep, with suitable shelter over the same to afford privacy, and protection from the elements. The openings of the shelter and pit shall be inclosed by mosquito screening, and the door to the shelter shall be made to close automatically by means of a spring or other device. No privy pit shall be allowed to become filled with excreta to nearer than one foot from the surface of the ground, and the excreta in the pit shall be covered with earth, ashes, lime or similar substances at regular intervals. All drainage water shall be conveyed from the premises by means of a covered drain to a covered cesspool.

§ 44. **Plumbing fixtures made sanitary.** In every tenement house hereafter erected all plumbing fixtures affecting the sanitary drainage system shall be properly trapped and vented and made sanitary in every particular. In any tenement house hereafter erected, and in any tenement house erected prior to the passage of this act no plumbing fixtures shall be inclosed with woodwork, but the space under and around same must be left entirely open. All woodwork inclosing a water-closet, sink, slop-sink, wash tray or lavatory shall be removed and the floor and wall surface beneath and around such water-closet, sink, slop-sink, wash-tray or lavatory shall be maintained in good repair, and if of wood, well painted with a light-colored paint of sufficient body to make it nonabsorbent. All wooden seats, attached to water-closet bowls, shall be varnished or enameled, or by some other method be made nonabsorbent.

In every tenement house hereafter erected water-closets shall have earthenware bowls and shall have earthenware seats integral with the bowls, or wooden seats varnished or enameled so as to be nonabsorbent, or seats made of some nonabsorbent material attached directly to the bowls. No wooden wash-trays or wooden kitchen sinks shall be permitted in such buildings. All plumbing connections hereafter made in buildings shall be of standard lead, iron, steel or brass; and every gas and water service connection hereafter made shall be of steel or iron, and shall be equipped with cut-off valves placed outside of the building and such cut-off valves shall be readily accessible.

Whenever any plumbing fixture becomes insanitary the department charged with the enforcement of this act is hereby empowered to order the same removed and to order that it be replaced by a fixture conforming to the provisions of this act.

§ 45. **Two means of egress.** Every tenement house hereafter erected, three or more stories in height and in which there are three or more apartments on any one floor, shall be so designed and constructed that every apartment in such building shall have not less than two means of egress, either by stairways or fire-escapes, constructed in accordance with the provisions of this act. Such means of egress shall be accessible from every apartment, either directly or through a public hallway, and so located that should one egress be or become blocked, the other egress shall be available.

§ 46. **Stairways.** Every tenement house hereafter erected shall have not less than two stairways.

Every fireproof tenement house hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each six thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every semi-fireproof tenement house hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each four thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every wooden tenement house hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each three thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every tenement house hereafter erected shall have not less than one stairway leading from the outside to every basement or cellar thereof.

§ 47. **Computing number of stairways required.** The largest floor area above the ground floor shall be used as the basis for computing the number of stairways required in every tenement house hereafter erected; provided, that if all floors above the largest floor area of the building are diminished in area, the stairway or stairways from that portion of the building containing a smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 48. **Location of stairways.** All stairways hereafter constructed shall be located so as to furnish the best means of egress from the building,

and shall be as far removed from each other as practicable, and shall be as follows:

Access to stairways shall be provided at every floor by means of a public hallway, corridor, or passageway, and the public hallway, corridor, passageway and stairway from the ground exit level to the top story or roof shall be accessible at all times.

No stairway shall abut on more than one side of an elevator shaft, except on the lowest and topmost stories, provided that the stairway is so located that it can be approached from the street entrance without passing by or in front of the open side of the said elevator shaft.

No stairway shall be located over a steam boiler, gas meter or gas heater or furnace, unless such boiler, gas meter, gas heater, or furnace be located in a room, the walls and ceiling of which are constructed as required for a boiler-room by section sixty-three of this act. No stairway leading from any other portion of the building shall terminate in or pass through a boiler-room.

§ 49. **Construction of stairways.** Every stairway hereafter constructed shall be as follows: have a rise of not more than eight inches and a run of not less than nine inches, without change in the run or rise between floors; and shall be provided with head room of not less than six feet six inches measured from the nearest nosing of the stairway to the nearest soffit.

The depth of every landing in a stairway shall be not less than the width of the stairway, and all treads shall be of equal width for every run of stairs, and shall not vary in width in the width of the stairs.

Stairways required by this act shall be continuous from the ground floor level to the top story, i. e., the flights of such stairways shall be constructed one directly above the other, or shall be constructed so that each flight shall be in plain view of each succeeding flight; provided, however, that half of the stairways from the upper floors may terminate at the second floor, in the event that the stairways from the first to the second floor be increased in width not less than fifty per cent.

Every stairway shall have at least one handrail, and if the stairway be five feet or more in width, shall have a handrail on each side thereof.

The underside and soffits of wooden stairways and the outside stringers of open stairways except outside stairway, in semi-fireproof and wooden tenement houses shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with an approved plaster board and plastered not less than three-quarters inch thick including the plaster board.

The width of stairways shall be measured in the clear of all projections except the baseboards, and except that handrails and newel posts may project not more than four inches.

§ 50. **Space under stairway.** No closet of any kind shall be constructed in any tenement house under any wooden stairway, but such space shall be kept entirely open, and be kept clean and free from all encumbrances; or such space shall be effectually closed with walls of studs, lathed and plastered, with no door or opening of any kind therein; provided, however, that the provisions of this section as to a closet

under a stairway shall not apply to any tenement house not more than two stories in height, in which not more than two families live above the first floor thereof.

§ 51. **Stairway to roof. In tenement house already erected.** In every tenement house hereafter erected more than two stories in height, the stairway nearest to the main entrance of the building shall be carried to the roof level and shall give egress to the roof through a penthouse or roof structure.

In every such building not exceeding two stories in height there shall be constructed a scuttle in the public hallway near the stairway. Such scuttle shall be not less than two feet by three feet in area, and shall be cut through the ceiling and roof.

Penthouses over stairways shall be built either of fireproof materials or of wood studs, lathed with metal lath or approved plaster board and plastered not less than three-quarters inch thick including the lath or plaster board on the inside and outside thereof; or such penthouses may be covered in the same manner and with the same kind of materials as required by this act for the doors from such penthouses.

The door to the roof from a penthouse or roof structure shall be self-closing and shall open outward to the roof, and shall be covered on both sides and edges with tin or other metal.

The frames and trim of such door opening shall be similarly constructed and all glass in such door shall be wired glass not less than one-fourth inch thick.

Every tenement-house of more than two stories in height, erected prior to the passage of this act, shall have in the roof a penthouse or a scuttle, which scuttle shall be not less than two feet by three feet in area, located in the ceiling of a public hallway. There shall be provided a stairway or a stationary ladder, leading from the top floor of such tenement house to the roof thereof. Such stairway or stationary ladder shall be made readily accessible to all the tenants of the building. No scuttle or penthouse door shall at any time be locked with a key, but may be fastened on the inside by a movable bolt or lock.

§ 52. **Hallways, etc., from stairways.** Public hallways, landings and corridors from stairways shall be of the same width and measured in the same manner as the stairways, as provided in section fifty hereof.

§ 53. **Fire-escapes. Types of fire-escapes.** On every tenement house hereafter erected more than two stories in height, which contains more than three apartments, there shall be provided at least one fire-escape. If such tenement house exceeds three thousand square feet of floor area on any one floor above the second floor thereof, such building shall be provided with one additional fire-escape for each four thousand square feet of floor area or fractional part thereof.

Fire-escapes required by this act shall be of one of the following types:

Type 1. Metallic throughout and fastened securely to the exterior walls of the building, with a balcony at each story above the first story thereof, with inclined stairways connecting all balconies and a goose-neck ladder connecting the topmost balcony to the roof. The lowest bal-

cony of such fire-escape to be not more than fourteen feet above the street or ground level directly under same.

All metallic balconies shall be not less than forty-four inches in width nor less than thirty-three square feet in area. The stairway openings therein shall be not less than twenty-one inches wide and forty inches in length. The balcony balustrade shall be not less than thirty-four inches high, with no opening in such balustrade greater than eight inches in horizontal dimension.

There shall be no opening greater than one inch in width in a fire-escape balcony platform, except the stair-well opening.

There shall be no opening greater than one inch in width in the lowest fire-escape balcony platform, except that there be attached a counter-balanced or permanent ladder reaching to the street or ground below.

Every balcony platform shall be fastened to the outside walls of the building by building in and anchoring to such walls the balcony platform and the balustrade framing, or by securely bolting same thereto. Every balcony shall be supported by brackets, braces, or struts fastened to or built in and anchored to the walls.

The inclined stairways shall be not less than eighteen inches in width and placed in no part nearer than twenty-one inches from the face of the wall. Such inclined stairways shall have an inclination of not less than four inches and not more than six inches horizontally to each twelve inches of vertical height. The treads shall be not less than four inches wide, placed not more than twelve inches apart. Each side of such stairways shall be provided with a handrail not less than one inch in diameter fastened to the stair stringers and continued around the well hole openings of balcony platform.

The gooseneck ladder shall be not less than fifteen inches wide and extend vertically from the topmost balcony to three feet above the fire wall or roof above, and then be brought down and fastened to the inside face of the fire wall or to the roof. The rungs of the gooseneck ladder shall be not less than five-eighths inch round iron or steel, placed not more than fourteen inches apart. The gooseneck ladder shall be securely braced and fastened to the outside wall, and in no case shall such ladder pass in front of any opening in the wall to the interior of the building. The cornice opening for the passage of such ladder shall be not less than twenty-four inches in width and twenty-four inches in the clear outside of the ladder.

Such fire-escape shall be framed and riveted or bolted together in a solid, substantial manner and properly supported, braced and fastened to the outside walls so as to be rigid, durable and secure and carry the loads imposed.

All metallic fire-escapes shall be painted with not less than two coats of good, durable paint; or such fire-escapes may be galvanized.

Type 2. Metallic ladders and stairways conforming to the provisions set forth for type one and with reinforced concrete or iron or steel fireproofed balconies, with fastenings of similar materials. Such balconies to measure the full size inside of balustrades. Floor openings and well holes provided and protected similarly to the requirements for metallic balconies.

Type 3. Any type of an inclosed approved metallic spiral fire-escape which consists of a rigid form of an inclined chute or chutes constructed entirely of incombustible material; securely attached to the outside walls of building; provided with proper means of ingress thereto from the building and egress therefrom at the bottom; having means enabling firemen to reach the roof thereby from the ground; equipped with standpipes; painted the same as provided for metallic fire-escapes; and satisfactory to the department charged with the enforcement of this act as being as solid, substantial and durable and as fireproof in construction, and providing at least as safe and efficient means of escape from the building for the occupants thereof, and furnishing all the protection and utility of the metallic fire-escapes described as "type one" in this act.

Type 4. Fire and smoke towers, consisting of a fire-escape stairway not less than twenty inches in width, constructed of reinforced concrete, iron or steel, or a combination of these materials; and in all other details as required in this act for metallic fire-escape stairways; said stairways being continuous the full height of the building from the first floor exit level to the roof, and with handrails on each side thereof the full length of same. Such stairways to be constructed at a point adjoining the exterior walls of the building and be entirely inclosed with walls of brick, terra cotta tile, concrete or reinforced concrete not less than twelve inches thick; such walls to be continuous from the basement up to and extending three feet above the roof of the building, with no covering of any kind over same, and with no openings in the walls of such tower into the building. The inclosing walls of such tower not to be used to carry or support any floor joist, beam, girder or other structural feature of the building, nor to be chased for any pipe, conduit or other purpose; to have an exit from the inclosure at the first floor line opening directly to a street or yard, and having an entrance by means of an outside balcony at each floor, such balconies to have a solid floor and in all other details and kind of materials to be as in this act required for metallic fire-escape balconies. The balconies to be located and arranged to connect with a door opening from a public hallway in the interior of the building and with a door opening leading from the balcony to the tower, such door opening from the building to the balcony and from the balcony to the tower to be not less than thirty inches wide by seventy-two inches high and be equipped with metal-lined doors and with a frame and threshold of such door openings constructed of fireproof materials.

Type 5. A fire and smoke tower in every way similar to "type four" of this section, except that instead of the outside balcony there be built a vestibule with inclosing walls continuous with and of the same kind of materials and of the same thickness as the inclosing walls of the fire tower; that the vestibule opening be direct from a public hallway and be equipped with metal-lined doors. The vestibule floor to be of masonry construction. The inclosure to have an opening at each floor through the exterior wall of the building, such opening to extend from the floor to the ceiling and be not less in width than three-fourths of the width of the tower, said opening to be protected with an open metallic balustrade similar to that specified for metallic fire-escape balconies.

§ 54. **Stairway and fire-escape combined.** In any tenement house hereafter erected in which there is constructed a fire escape of "type four" or "type five," as prescribed in this act, such fire-escape may be used and constructed as a stairway and a fire-escape combined; provided, that there is at least one other stairway or one other fire-escape constructed in accordance with the provisions of this act, in the said building.

§ 55. **Location of fire-escapes.** Every fire-escape required by this act shall be located on the building so as to furnish the best means of escape therefrom for the occupants, and at least one such fire-escape shall be located on a street front. Every fire-escape shall have egress thereto from a public hallway or passageway not less than three feet wide, or such fire-escapes in lieu of being located on a public hallway, shall be so located that each apartment has direct egress thereto without passing through another apartment, or if a public parlor, public lobby or similar room is connected directly with the public hall, corridor or passageway through a clear and unobstructed opening, without doors, then egress may be had thereby to a fire-escape. Signs both pointing toward and marking the locations of fire-escapes shall be placed on each floor.

§ 56. **Computing number of fire-escapes required.** The largest floor area above the second floor shall be used as a basis for computing the number of fire-escapes required by this act; provided, that if all floors above the largest floor area are diminished in size, the number of fire-escapes from that portion of the building containing the smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 57. **Strength of platform, etc.** All parts of each balcony platform of a fire-escape shall be designed to carry, in addition to the dead load thereof, a live load of one hundred pounds per square foot over the entire area thereof (using outside dimensions) and the live and dead loads from the ladders or stairs supported thereon.

Each ladder shall be designed to withstand a horizontal pressure of one hundred pounds per square foot.

Each stairway shall be designed to carry, in addition to the dead load thereof, a live load of one hundred fifty pounds per square foot of horizontal projection.

Top rails of balcony balustrades shall be designed to withstand a horizontal pressure of one hundred pounds per lineal foot of railing.

Each balcony shall be independently supported.

All fastenings of fire-escape balconies to the building shall be designed to carry twenty-five per cent greater load than the total dead and live loads carried by the balconies. The balcony anchorage shall be direct to the structural steel or iron members of the balustrades and platforms extended into the walls and anchored into the structural work of the building.

The level of the inside sill of the door or window giving access to a fire-escape balcony or the balcony floor shall be not more than thirty inches above the adjoining floor in the building. Every such door or

window opening shall be not less than twenty-nine inches in clear width, nor less than fifty-eight inches in height.

Where double-hung windows are used in such openings, the lower sash shall be at least the size of the upper sash and shall slide to the top of such opening. Any lock used on any such window shall be of a type which can be readily opened from the interior of the building without the use of a key or other tool.

§ 58. **Readily accessible.** Every fire-escape in or on tenement houses hereafter erected, or in or on tenement houses erected prior to the passage of this act, shall at all times be maintaind in good order and repair, well painted and clear and unobstructed at all times, and be readily accessible.

§ 59. **Standpipes.** On every tenement house hereafter erected four or more stories in height, there shall be provided one or more metallic standpipes. Each such standpipe shall be not less than four inches in internal diameter, and shall have a Siamese inlet valve near the sidewalk or the ground directly under same, and an outlet valve at each story above the first story and on the roof.

One such standpipe shall be placed on or in the exterior walls of the building at one fire-escape on each street frontage, and the outlet valves shall be readily accessible from the balconies of the fire escape.

The inlet and outlet valves on every standpipe shall be threaded and brought to a size which will meet the standard connections of the local fire department of the municipality in which such tenement house is being erected.

The standpipes required by this section need not be installed in any tenement house which is situated where there is no running water and where it is not practicable or possible to obtain water for efficient use of such standpipes in case of fire, until such time as it is practicable and possible to obtain running water; and the department charged with the enforcement of this act shall decide whether or not it is possible or practicable to obtain running water.

§ 60. **Elevator shafts inclosed.** In every fireproof tenement house hereafter erected, every elevator shaft, dumb-waiter shaft or other interior shaft shall be inclosed in walls constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard incombustible materials, or shall be constructed of metal studs lathed either with metal lath or an approved plaster board and plastered on both sides so as to make a solid partition not less than two inches thick.

In every semi-fireproof or wooden tenement house hereafter erected, every such shaft shall be inclosed by walls constructed as provided by this act for fireproof tenement houses, or such walls may be constructed with wood studs, with wood firestops the same size as the studs, cut in between the studs at each floor and half way between each floor, lathed on both sides with metal lath or an approved plaster board and be plastered not less than three-quarters inch thick including the lath or the plaster board.

Every opening from any shaft into the building shall be equipped with a metal door and with door frame and trim entirely of metal; or such

door and door frame shall be constructed of wood covered with metal on the shaft side thereof and if there is any glass therein, such glass shall be wired glass not less than one-fourth (¼) inch thick. Every door or window therein shall be made to close tight, and every door except elevator doors therein shall be self-closing.

Every window in such shaft shall be of wired glass, not less than one-fourth (¼) inch thick, set in a metal sash or a sash metal covered on the shaft side thereof. At the roof over every elevator shaft there shall be constructed a ventilating skylight or a ventilator with open louvres.

§ 61. Vent shafts inclosed. In every tenement house hereafter erected every vent shaft shall be inclosed with walls constructed the same as required by this act for elevator shaft in the same class of building. Such vent shafts may, in a semi-fireproof or wooden tenement house, be lined on the outside thereof (weather side) with metal in lieu of metal lath and plaster; also, that portion of such shaft extending from the ceiling joists to the top thereof may be lined with metal in the same manner as is required for the weather side of such vent shaft.

Every opening from any vent shaft into the building or any window therein, shall be equipped in the same manner as required by this act for elevator shafts in the same class of building.

Plaster on the weather side of any such shaft shall be cement plaster.

Every vent shaft required by this act shall be not less than four feet in any direction and be at least sixteen square feet in area. If such vent shaft exceeds fifty feet in height, measured from the bottom to the top of the walls of such shaft, then such vent shaft shall throughout its entire height be increased in area three square feet for each additional ten feet or fractional part thereof above fifty feet.

Every such vent shaft shall be provided with an air intake or duct at or near the bottom thereof, communicating with the street or yard or a court. Such intake shall be not less than three square feet in total area, and may be divided into not more than three separate ducts running between the joists or otherwise, and shall in all cases be placed as nearly horizontal as possible. Every such intake or duct shall be constructed of approved fireproof material or shall be of metal or metal lined, and be provided with a wire screen of not less than one inch mesh at each end. Plumbing, gas, steam or other similar pipes may be placed in such vent shaft.

Every such vent shaft shall have a door or a window at or near the bottom of the shaft, so arranged as to permit of its being readily cleaned out.

§ 62. Walls of inner court. The walls of every inner court in a fireproof tenement house hereafter erected shall be constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard incombustible material. In a semi-fireproof or in a wooden tenement house such inner court walls, if surrounded on four sides by the walls of the same building, shall be constructed as provided for fireproof tenement houses, or may be of wood studs, with wood firestops the same sizes as

the studs, cut in between the studs at each floor and halfway between each floor, lathed on both sides with metal lath, or an approved plaster board, and be plastered not less than three-quarters inch thick including the lath or the plaster board. Plaster on the weather side of such inner court walls shall be cement plaster, or such inner court walls may be lined on the weather side with not less than the number twenty-six (gauge) metal, in lieu of metal lath and plaster.

§ 63. **Boiler-room. Doors in boiler-room.** In every tenement house hereafter erected, every boiler used for purposes of heating the building, using fuel other than gas, and every heating furnace or water-heating apparatus, using oil for fuel, shall be installed in a room, the walls of which room shall be built of concrete, reinforced concrete, brick, stone or terra cotta tile, not less than six (6) inches thick, and such walls shall extend from the floor of the boiler-room to the ceiling over same. The entire ceiling of such room shall be built of similar materials as the walls, or shall be built with a double ceiling, with a space of not less than seven-eighths inch between the two ceilings; each ceiling shall be metal lathed or lathed with an approved plaster board and be plastered not less than three-quarters inch thick, including the lath or plaster board. The floor of a boiler-room shall be of concrete not less than two (2) inches thick.

Any door in the wall of such room shall be a fire-resisting door, constructed of three (3) thicknesses of seven-eighths (⅞) inch by not more than six (6) inches, tongued and grooved, matched redwood boards entirely covered on the sides and edges with lock-jointed tin; every such door shall be self-closing, so hung as to overlap the walls of the room at least three (3) inches, and any glass in any such door or any glass in any window or opening in the walls of a boiler-room shall be wired glass, not less than one-fourth (¼) inch thick, set in a metal or metal covered sash.

All such doors shall have hinges, hangers, latches and other hardware of wrought iron, bolted to the doors, and shall have steel tracks, when sliding doors are used, with wrought-iron stops and binders bolted through the wall. Swinging doors shall have wall eyes of wrought iron, built into or bolted through the wall.

Every such boiler-room shall have a sill across each door not less than four (4) inches high. Such sill shall be of masonry, and the doors shall overlap same at least three (3) inches, or in lieu of a masonry sill a steel or iron sill may be used, in which case the bottom of the door shall close tight on top of same. Every swinging door in a boiler-room shall open outward from the boiler-room.

Where oil or other fluid fuel is burned, the oil or other fluid fuel shall not be fed by a gravity flow.

§ 64. **Garage.** In every tenement house hereafter erected any portion of such building, in which there is kept or stored any automobile or automobiles, shall be a room, the inclosing partitions of which shall be built of concrete, reinforced concrete, brick, stone or terra cotta tile, not less than six (6) inches thick, or may be of wood studs lined on the automobile storage room side with redwood boards not less than

seven-eighths (⅞) of an inch thick covered with asbestos paper one-eighth (⅛) of an inch thick, and then covered with No. 26 (gauge) galvanized iron, and such inclosing partitions shall extend from the floor of the room to the ceiling of the same. The entire ceiling of such room shall be built of material similar to that used in the construction of its walls, or shall be either metal lathed and be well plastered or be lathed with an approved plaster board and be well plastered. The floor of every such room shall be of concrete not less than two (2) inches thick.

Every door, window or other opening in the walls of such room, opening to the interior of the building, shall be protected in the same manner as required by section sixty-three hereof for doors, windows and other openings in a boiler-room.

§ 65. **Height of additional rooms in tenements erected prior to act.** In any tenement house erected prior to the passage of this act, every additional room or hallway that is hereafter constructed or created, may be of the same height as the other rooms or hallways on the same story of such tenement house.

§ 66. **Windows in tenement already erected.** Every room in a tenement house erected prior to the passage of this act shall, if the said room be hereafter occupied for living or sleeping purposes, have a window of an area not less than eight square feet, opening directly upon a street, a yard, a court or upon a vent shaft not less than twenty-five square feet in area, which vent shaft shall in no part be less than four feet wide and open and unobstructed, without roof or skylight over same; except that if such room be located on the top floor of the building, such room may be ventilated by a skylight with fixed louvres directly to the outer air, or may have a window opening upon a vent shaft not less than ten square feet in area, if such window from the room be not more than three feet below the top of the wall of such vent shaft.

Every public hallway in every tenement house erected prior to the passage of this act, which does not conform to the provisions for public hallways in buildings hereafter erected, shall be provided with light and ventilation to the outer air. Such light and ventilation shall be provided by the placing of windows or skylights, or by making such alterations as in the judgment of the housing department may be deemed necessary to accomplish the result.

§ 67. **Cooking in bath, etc., unlawful. Sleeping in cellar, etc., unlawful. Floor space for each occupant.** It shall be unlawful for any person to cook or to prepare food, or to permit or suffer any person to cook or to prepare food in any bath, shower, slop-sink or toilet-room, water-closet compartment; or in any closet, or recess from a room, or dressing-room, which does not conform to all the provisions of this act as to size of kitchens and windows opening to a street, yard or court, or in any other place in such building which, in the judgment of the department charged with the enforcement of this act, is detrimental to the proper sanitation of such building.

It shall be unlawful for any person to live or sleep, or permit or suffer any person to live or sleep in any cellar, bath or shower compartment or slop-sink room, water-closet compartment, hallway, closet, kitchen, recess from a room or dressing-room, except when such recess from a room or dressing-room has not less than ninety square feet of superficial floor area and complies with every other requirement of this act for rooms, or in any other place which, in the judgment of the department charged with the enforcement of this act, would be dangerous or prejudicial to life or health by reason of want of light, windows, ventilation, drainage, or on account of dampness or offensive, obnoxious or poisonous odors, or in any room that shall be so overcrowded as to afford less than the following floor space for each occupant, in accordance with the age of the said occupant:

Number of persons over 12 years of age	Number of persons under 12 years of age	Superficial floor area required
1 or	2	60 square feet
2 or	4	120 square feet
3 or	6	180 square feet
4 or	8	240 square feet
5 or	10	300 square feet
6 or	12	360 square feet

Additional floor area in the same ratio shall be provided for additional persons.

§ 68. **Lighting of hallways, etc.** In every tenement house there shall be installed and kept burning from sunrise to sunset throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, passageway, public water-closet compartment, or toilet-room, whenever there is insufficient natural light to permit a person to read in any part thereof.

In every tenement house there shall be installed and kept burning from sunset to sunrise throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, public water-closet compartment, or toilet-room and exterior passageway on the lot.

§ 69. **Light-colored material on walls.** The walls and ceilings of every sleeping-room in every tenement house shall (except when there is sufficient natural light to permit a person to read in any part thereof during daytime) be calcimined or painted or papered with a light-colored material, and such calcimine, paint or paper, as the case may be, shall be renewed as often as is necessary to maintain the same of a light color and clean and free from vermin.

The walls of courts and shafts, unless built of light-colored materials, shall be painted of a light color or whitewashed, and such painting or whitewashing shall be renewed as often as is necessary to maintain the same of a light color.

§ 70. **Repapering.** No wall, partition or ceiling of any room in any tenement house shall be repapered, calcimined, or have any other covering placed thereupon unless the old wall paper or other covering shall

have first been removed therefrom, and the said wall, partition or ceiling cleaned, disinfected and freed from bugs, insects or vermin.

§ 71. **Repairs.** Every tenement house shall be maintained in good repair. The roofs shall be kept waterproof and all storm or casual water properly drained and conveyed therefrom to the street sewer, storm drain or street gutter.

All portions of the lot about a tenement house, including the yards, areaways, vent shafts, courts and passageways, shall be properly graded and drained; and whenever the department charged with the enforcement of this act deems it necessary for the protection of the health of the occupants of such building, or for the proper sanitation of the premises, it may require that the said lot, yards, areaways, vent shafts, courts and passageways be graveled or properly paved and surfaced with concrete, asphalt or similar materials.

§ 72. **Metal mosquito screening.** There shall be provided, whenever it is deemed necessary for the health of the occupants of any tenement house or for the proper sanitation or cleanliness of any such building, metal mosquito screening of at least sixteen mesh, set in tight-fitting removable sash, for each exterior door, window or other opening in the exterior walls of the building.

§ 73. **Garbage cans.** In every tenement house there shall be provided by the occupants, or tenants, such number of tight metal receptacles with close-fitting metal covers for garbage, refuse, ashes and rubbish as may be deemed necessary by the department charged with the enforcement of this act, or in lieu of such metal receptacles there may be constructed a garbage chute or shaft approved by the housing department. Each of said receptacles shall be kept in a clean condition by the occupants, or tenants and in the case of a chute or shaft by the person in charge or in control of the building.

§ 74. **Rooms, etc., to be kept clean. Swill, etc., not to be deposited in plumbing fixtures.** Every room, hallway, passageway, stairway, wall, partition, ceiling, floor, skylight, glass window, door, carpet, rug, matting, window curtain, water-closet compartment or room, toilet-room, bathroom, slop-sink, or wash-room, plumbing fixture, drain, roof, closet, cellar, or basement in any tenement house or on the lot, yard, court or any of the premises thereof, shall be kept in every part clean and sanitary and free from all accumulation of debris, filth, rubbish, garbage or other offensive matter.

No person shall, or cause or permit any person to, deposit any swill, garbage, bottles, ashes, cans or other improper substances in any water-closet, sink, slop-hopper, bathtub, shower, catch-basin, or in any plumbing fixture connection or drain therefrom; or otherwise to obstruct the same; or to place or cause or permit to be placed any filth, urine or other foul matter in any place other than the place provided for same; or to keep or cause or permit to be kept any urine or filth or foul matter in any room or apartment in any tenement house, or in or about the said building or premises thereof, for such length of time as to create a nuisance.

§ 75. Beds kept clean. In every tenement house, every part of every bed, including the mattress, sheets, blankets and bedding, shall be kept in a clean, dry and sanitary condition, free from filth, urine or other foul matter, in or upon the same; and free from the infection of lice, bedbugs or other insects.

§ 76. Dangerous articles not to be kept. In no tenement house or any part thereof, or in the lot, yard, court or any portion thereof, shall there be kept, stored or handled any article dangerous or detrimental to life or to the health of the occupants thereof; nor shall there be stored, kept or handled any feed, hay, straw, excelsior, cotton (paper stock, rags or junk, except upon a written permit so to do, obtained from the fire commissioner or other department authorized to issue such permit. Every such permit shall be deemed to be a public record, made in duplicate, and a copy thereof shall remain on file in the office of the fire commissioner or department issuing same.

§ 77. Animals not to be kept. Bakery. No horse, cow, calf, swine, sheep, goat, rabbit, mule or other animal, chicken, pigeon, goose, duck or other poultry shall be kept in any tenement house or any part thereof; nor shall any such animal or poultry nor shall any stable be kept or maintained on the same lot, yard, court or premises of a tenement house or within twenty feet of any window or door or such building, nor shall there be hereafter constructed, altered, converted or maintained in any tenement house any public automobile garage or machine-shop, or automobile repair-shop.

No bakery or place of business in which fat is boiled shall be constructed or maintained in any tenement house, unless such bakery or place of business in which fat is boiled is constructed of approved fireproof materials, with no openings connecting into the tenement house, and so separated and arranged as to prevent odors from entering such building.

No tenement house shall be connected with or have any door, window or transom opening to any part of a building wherein spirituous liquors, drugs, paint or oil are stored or kept for the purpose of sale or otherwise.

§ 78. Housekeeper in charge. In every tenement house in which eight (8) or more families reside, and in which the owner does not live, there shall be a janitor, housekeeper or other responsible person, who shall reside in such tenement house or on the same lot or premises thereof and have charge of same.

§ 79. Action to abate nuisance. Authority to execute order. In case any tenement house, or any part thereof, is constructed, altered, converted or maintained in violation of any provisions of this act or of any order or notice of the department charged with its enforcement, or in case a nuisance exists in any such tenement house or building or structure, or upon the lot on which it is situated, said department may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or nuisance, to prevent the occupation of said tenement house, building or structure, to prevent any illegal act, conduct or business in or about such tenement house or lot. In any such action or proceeding said department may, by affidavit setting forth

the facts, apply to the superior court, or to any judge thereof, for an order granting the relief for which said action or proceeding is brought, or for an order enjoining all persons from doing or permitting to be done any work in or about such tenement house, building, structure or lot, or from occupying or using the same for any purpose, until the entry of final judgment or order. In case any notice or order issued by said department is not complied with, said department may apply to the superior court or to any judge thereof, for an order authorizing said department to execute and carry out the provisions of said notice or order, to remove any violation specified in said order or notice, or to abate any nuisance in or about such tenement house, building or structure, or the lot upon which it is situated. The court, or any judge thereof, is hereby authorized to make any order specified in this section. In no case shall the said department or any officer thereof or the municipal corporation be liable for costs in any action or proceeding that may be commenced in pursuance of this act.

§ 80. **Fine a lien.** Every fine imposed by judgment under section six of this act upon a tenement house owner shall be a lien upon the house in relation to which the fine is imposed, from the time of the filing of a certified copy of said judgment in the office of the recorder of the county in which said tenement house is situated, subject only to taxes and assessments and water rates, and to such mortgage and mechanics' liens as may exist thereon prior to such filing; and it shall be the duty of the department charged with the enforcement of the provisions of this act, upon the entry of such judgment, to file forthwith the copy as aforesaid, and such copy upon filing shall be forthwith indexed by the recorder in the index of mechanics' liens.

§ 81. **Notice of pendency of action.** In any action or proceeding instituted by the department charged with the enforcement of this act, the plaintiff or petitioner may file, in the county recorder's office of the county where the property affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Said notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards before final judgment or order, or at any time after the service of any notice or order issued by said department. Such notice shall have the same force and effect as the notice of pendency of action provided for in the Code of Civil Procedure. Each county recorder with whom such notice is filed shall record it and shall index it in the name of each person specified in a direction subscribed by an officer of the department instituting such action or proceeding. Any such notice may be vacated upon the order of a judge of the court in which such action or proceeding was instituted or is pending. The recorder of the county where such notice is filed is hereby directed to mark such notice, and any record or docket thereof as canceled of record, upon the presentation and filing of a certified copy of such order.

§ 82. **Name of owner, etc., filed.** Every owner of a tenement house and every lessee of the whole house, or other person having control of a tenement house, shall file in the housing department a notice, containing his name and address, and also a description of the property,

by street and number and otherwise, as the case may be, in such manner as will enable the department charged with the enforcement of this act easily to find the same; and also the number of apartments in each house, the number of rooms in each apartment, and the number of families occupying the apartments. In case of a transfer of any tenement house, it shall be the duty of the grantee of said tenement house to file in the housing department a notice of such transfer, stating the name of the new owner, within thirty days after such transfer. In case of the devolution of the said property by will, it shall be the duty of the executor and the devisee, if more than twenty-one years of age, and in the case of devolution of such property by inheritance without a will, it shall be the duty of the heirs, or in case all the heirs are under age, it shall be the duty of the administrator of the deceased owner of said property, to file in said department a notice, stating the death of said owner and the names of those who have succeeded to his interests, within thirty (30) days after the death of the decedent, in case he died intestate, and within thirty days after the probate of his will, if he died testate.

§ 83. **Name of agent filed.** Every owner, agent or lessee of a tenement house shall file in the housing department a notice containing the name and address of such agent of such house, for the purpose of receiving service of process, and also a description of the property, by street and number or otherwise, as the case may be, in such manner as will enable the department charged with the enforcement of this act easily to find the same. The name of the owner or lessee may be filed as agent for this purpose.

§ 84. **Index of names.** The names and addresses filed in accordance with sections eighty-two and eighty-three hereof shall be indexed by the housing department in such a manner that all of those filed in relation to each tenement house shall be together and readily ascertainable. Said indices shall be public records, open to public inspection during business hours.

§ 85. **Time of service.** Every notice or order in relation to a tenement house shall be served five days before the time for doing the thing in relation to which it shall have been issued.

§ 86. **Manner of service.** In any action brought by any department charged with the enforcement of this act in relation to a tenement house, for injunction, vacation of the premises or other abatement of nuisance, or to establish a lien thereon, it shall be sufficient service of summons to serve the same as notices and orders are served under the provisions of the Code of Civil Procedure.

§ 87. **Minimum requirements. Supplementary laws. Repeal of prior laws and ordinances. Powers of cities not abrogated.** The provisions of this act shall be held to be the minimum requirements adopted for the protection, the health and the safety of the community, and for the protection, the health and the safety of the occupants of tenement houses. Nothing in this act contained shall be construed as prohibiting

the local legislative body of any incorporated town, incorporated city, incorporated city and county, or county, from enacting, from time to time, supplementary ordinances or laws imposing further restrictions, or providing for fees to be charged for permits, certificates, or other papers required by this act; but no ordinance, law, regulation or ruling of any municipal department, authority, officer or officers, shall repeal, amend, modify or dispense with any of the provisions of this act.

All statutes of the state and all ordinances of incorporated towns, incorporated cities, incorporated cities and counties, and counties, as far as inconsistent with the provisions of this act, are hereby repealed; provided, that nothing in this act contained shall be construed as repealing or abrogating any present law or ordinance of any incorporated town, incorporated city, incorporated city and county, or county in the state which further restricts the percentage of the lot to be covered by a tenement house, the number of stories or height of such tenement house or number of apartments therein, the occupation thereof, the materials to be used in its construction, or increasing the size of the yards or courts, the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

Nothing in this act contained shall be construed as abrogating, diminishing, minimizing or denying the power of any incorporated town, incorporated city, incorporated city and county, or county, by ordinance or law, to further restrict the percentage of the lot to be covered by a tenement house within said municipality, the number of stories or height of such tenement house or number of apartments therein, the occupation thereof, the materials to be used in its construction, or increasing the size of the yards or courts, the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

§ 88. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 89. **In effect, when.** This act shall take effect and be in force from and after September 1, 1917.

§ 90. **Act of 1911 repealed.** The act entitled "An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof and repealing an act entitled 'An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof' approved April 16, 1909, Statutes of California of 1909, page 948," approved April 10, 1911, Statutes of California, 1911, page 860, and approved June 13, 1913, Statutes of California, 1913, page 737, and approved May 29, 1915, Statutes of California page 952, and all acts amendatory thereof are hereby repealed.

TITLE 589.

UNITED STATES.

ACT 4219.

An act to accept from the United States government the cession of jurisdiction over a portion of the Presidio of the San Francisco military reservation.

[Approved May 17, 1917. Stats. 1917, p. 626. In effect July 27, 1917.]

§ 1. Cession of jurisdiction accepted. The state of California hereby accepts from the United States government the cession of jurisdiction over that portion of the Presidio of the San Francisco military reservation designated by the secretary of war for the use of the Panama-Pacific international exposition company and its successors in interest, pursuant to the act of congress making appropriations for the support of the army for the fiscal year one thousand nine hundred seventeen, approved August 29, 1916, subject to the conditions, reservations and stipulations contained in said act.

TITLE 593.

UNIVERSITY OF CALIFORNIA.

ACT 4263h.

An act authorizing the construction of the unfinished portion of the library building of the University of California, and the construction of a building for general use as a recitation building, of a building for the use of the college of agriculture, and of a building for the use of the college of natural sciences as a chemistry building, upon the grounds of said University of California at Berkeley; providing for the issuance and sale of state bonds to meet the cost of the foregoing purposes; and providing the necessary moneys for the payment of the principal and interest to become due on said bonds. [Adopted as initiative measure by vote of the people November 3, 1914. Stats. 1915, p. 1923.]

Amended 1915, p. 15; 1917, p. 21.

The amendment of 1917 follows:

§ 3. Sale of bonds on direction of governor. When the bonds authorized by this act to be issued shall have been signed, countersigned, indorsed and sealed, as in section one provided, the state treasurer shall, from time to time, sell such number thereof as the governor of the state may direct to the highest bidder for cash. The governor of the state shall, from time to time, issue to the state treasurer such direction immediately after being requested so to do through and by a resolution duly adopted and passed by a majority vote of the regents of the University of California. Such resolution shall specify the amount of money which, in the judgment of said the regents of the University of California, shall be required at such time, and the governor of the state shall direct the state treasurer to sell such number of bonds as will, at the par value thereof, equal said amount of money so required according to such resolution of the regents of the University of California. Said bonds shall be sold in consecutive numerical order, save and except that the state treasurer may sell two or more bonds at the same time in one lot, which

lot, however, shall be made up of bonds consecutively numbered, the first of which in number shall be the first bond in number yet unsold. The state treasurer shall not accept any bid which is less than the par value of the bond or bonds bid for, and to the amount of the accepted bid there shall be added in each case, as a part of the purchase price to be paid by the bidder, the amount of interest which shall have accrued on the bonds bid for between the date of the payment for said bonds and the last preceding interest maturity date. Each bid shall be in writing and signed by the bidder and sealed, and shall be deposited with the state treasurer not later than the last business day preceding the date of sale. Each bid shall be accompanied by the deposit with the state treasurer, either in cash or by certified check on a reputable bank within the state of California, to the order of the state of California, of one-tenth of the amount of the par value of the bond or lot of bonds bid for. Such deposit of each unsuccessful bidder shall be returned to him immediately upon the nonacceptance of his bid, and such deposit of the successful bidder shall immediately upon the acceptance of his bid become and be the property of the state of California and be placed in the state treasury to the credit of the "University of California building fund" hereinafter mentioned, and shall be credited to the successful bidder upon the purchase price of the bonds bid for in case such price is paid in full by him within the time hereinafter prescribed. At the time of sale the state treasurer shall open said bids and accept the bid of the highest bidder for cash, save and except that no bid shall be accepted which is lower in amount than the par value of the bonds bid for, and that the state treasurer may, in his discretion, reject all bids. The purchase price of the bonds sold shall be payable within ten days after the acceptance of the bid therefor, and if not so paid the successful bidder shall have no right in or to said bonds or by reason of said bid, or to the recovery of said deposit accompanying said bid, or to any allowance or credit by reason of such deposit. In case the purchase price is not so paid, the bonds so sold but not paid for shall be resold by the state treasurer upon notice as hereinafter provided in case of original sale. Bonds sold shall be deliverable to the purchaser immediately upon, and not before, the payment of the purchase price therefor. Before delivering any of said bonds, the state treasurer shall detach therefrom all interest coupons which have matured before the date of the payment of the purchase price therefor. The state treasurer may, by public announcement at the time and place fixed by him for said sale, continue such sale to such time and place as he may at the time of said continuance designate. When a sale is so continued no notice thereof need be given, other than the public announcement of such continuance by the state treasurer as just hereinbefore provided. The state treasurer shall give notice of the time and place of sale by publication in two newspapers published in the city and county of San Francisco, in one newspaper published in the city of Los Angeles, in one newspaper published in the city of Oakland, and in one newspaper published in the city of Sacramento, once a week for four weeks next preceding the date fixed for such sale. In addition to the notice last above provided for, the state treasurer may give such further notice as he may deem advisable, but the expense and cost of such additional notice shall not exceed the sum of five hundred dollars for each sale so advertised.

There is hereby created in and for the state treasury a fund to be known and designated as the "University of California building fund," and immediately after such sale of bonds the treasurer of the state shall pay into the state treasury and cause to be placed in said "University of California building fund" the total amount received from the sale of said bonds, except such amount as may have been paid as accrued interest thereon. The amount that shall have been paid at such sale as accrued interest on the bonds sold shall be by the treasurer of the state, immediately after such sale, paid into the treasury of the state and placed in a fund to be known as the "interest and sinking fund of the University of California building bonds."

The moneys placed in the "University of California building fund," pursuant to the provisions of this section, shall be used under the direction of the regents of the University of California exclusively for the completion of the construction of said library building and the construction of the other buildings hereinbefore mentioned, the furnishing and equipping of said buildings, the construction and equipment of a power plant, and tunnels and subways for steam and electric lines in connection with said buildings and neighboring buildings of the University of California, the doing of necessary landscaping immediately surrounding said buildings, and for meeting the expenses of the sale of said bonds.

Moneys shall be drawn from said "University of California building fund" for the purposes of this act, upon warrants duly drawn by the controller of the state, upon claims made by the regents of the University of California and approved by the state board of control.

TITLE 595a.

VENICE.

ACT 4271.

An act granting to the city of Venice the tide-lands and submerged lands of the state of California within the boundaries of the said city.

[Approved April 10, 1917. Stats. 1917, p. 89. In effect July 27, 1917.]

§ 1. **Tide-lands granted to Venice.** There is hereby granted to the city of Venice, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California held by said state by virtue of its sovereignty, in and to all the tide-lands and submerged lands, whether filled or unfilled; provided, that nothing contained herein shall in any way affect any property held or claimed under, through or from a Mexican grant or patent therefor within the present boundaries and jurisdiction of said city, and situated below the line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes and upon the express conditions following, to wit:

(a) **Purposes for which land may be used. Term of franchises and leases.** That said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances

necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon, for a period not exceeding twenty-five years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for a period not exceeding twenty-five years, for purposes consistent with the trusts upon which said lands are held by the state of California and with the requirements of commerce or navigation at said harbor;

(b) **Harbor improved without expense to state.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California;

(c) **No discrimination in rates. Right to fish reserved to people.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors;

Reserving, however, in the people of the state of California the absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose.

TITLE 600.

VITAL STATISTICS.

ACT 4302.

An act to provide a central bureau for the preservation of records of marriages, births and deaths, and to provide for the registration of all births and deaths, the establishment of registration districts under the superintendence of the state bureau of vital statistics; the issuance and registration of burial and disinterment permits and certificates of births and deaths; the appointment of state and local registrars of vital statistics; to prescribe the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and to fix penalties for violation of this act; to create the offices of state and local registrars of vital statistics, to provide for the salary and fees of same; to repeal all acts and parts of acts in conflict herewith.

[Approved May 19, 1915. Stats. 1915, p. 575.]

Amended 1917; Stats. 1917, p. 717.

§ 1. **Bureau of vital statistics. State registrar. Salary. Deputy. Other assistants.** The state board of health shall maintain a bureau of vital statistics which shall have charge of such matters and shall have such powers as may from time to time be referred and delegated to it by the state board of health. The board shall appoint a state registrar

who, by virtue of his office, shall be director of the bureau of vital statistics. His salary shall be two thousand four hundred dollars per annum. The state registrar shall be a competent vital statistician. He shall have general supervision and control over the bureau of vital statistics. He shall devote his entire time to the duties of his office and shall not engage in any other occupation or business. The board shall appoint also a deputy statistician, whose salary shall be one thousand six hundred dollars per annum, and two copyists, each of whom shall receive a salary of nine hundred dollars per annum. All such salaries shall be paid in the same manner and at the same time as the salaries of state officers. The state board of health may appoint and fix the compensation of such other additional professional and clerical assistants as may be necessary for the purposes of this act, but such compensation shall be paid from its fund for contingent expenses, as provided in the general appropriation act. As soon as practicable the custodian of the capitol shall provide for the bureau of vital statistics in the state capitol at Sacramento, suitable offices, which shall be properly equipped with fireproof vault and filing cases for the permanent and safe preservation of all official records made and returned under this act. [Amendment approved May 18, 1917; Stats. 1917, p. 717.]

§ 2. **Duties of state registrar.** The state registrar shall under the direction of the state board of health have charge of the registration of births, deaths, and marriages, shall prepare forms and blanks with instructions for obtaining and preserving such records and shall procure the faithful registration of the same in each primary registration district as constituted in section three of this act, and in the bureau of vital statistics of the state board of health at the capitol of the state. The said board shall be charged with the uniform and thorough enforcement of the law throughout the state, and shall promulgate any additional regulations. [Amendment approved May 18, 1917; Stats. 1917, p. 718.]

§ 3. **Registration districts.** For the purposes of this act the state shall be divided into registration districts as follows: Each city and county, city and incorporated town, shall constitute a primary registration district; and each county, exclusive of the cities and incorporated towns therein, may be subdivided by the state registrar into a sufficient number of primary rural registration districts, the boundaries of which he shall define and which he may alter, combine, or subdivide from time to time as may be necessary to promote efficient and convenient registration of all births and deaths. [Amendment approved May 18, 1917; Stats. 1917, p. 718.]

§ 4. **Local registrars. Local registrar for each primary rural district. Registrar for marriages. Deputy. Subregistrars.** The clerk of each city and county, city and incorporated town, shall be the local registrar in and for such primary registration district and shall perform all such duties of local registrar as hereinafter provided; provided, however, that in cities having a freeholders' charter, the health officer may act as local registrar and perform all the duties thereof. The state registrar, subject to the approval of the state board of health or its secre-

tary, shall appoint a local registrar for each primary rural district whose term of office shall be four years, and whom the state registrar may remove forthwith for failure or neglect to perform his duty as prescribed by this act. Each local registrar for a primary rural district, besides transmitting to the state registrar each original birth and death certificate registered by him and besides retaining a complete and accurate copy of each such birth and death certificate for the local record of the primary rural district as required by section nineteen of this act, shall also transmit to the recorder of the county for a special county record a complete and accurate copy of each original birth and death certificate transmitted by said local registrar to the state registrar; provided, further, that in accordance with sections three thousand seventy-six, three thousand seventy-eight, and three thousand seventy-nine of the Political Code, the county recorder shall be the sole local registrar for marriages performed anywhere in the county. Each local registrar shall immediately appoint a deputy in writing, whose duty it shall be to act in his stead in case of his absence or disability; and such deputy shall in writing accept such appointment, and be subject to all rules and regulations governing local registrars. And when it appears necessary for the convenience of the people in any registration district, the local registrar is hereby authorized, with the approval of the state registrar, to appoint one or more suitable persons to act as subregistrars, who shall be authorized to receive certificates and to issue burial or removal permits in and for such portions of the district as may be designated; and each subregistrar shall note, on each certificate, over his signature, the date of filing, and shall forthwith forward all certificates to the local registrar of the district, and in all cases before the third day of the following month; provided, that each subregistrar shall be subject to the supervision and control of the state registrar, and may be by him removed for neglect or failure to perform his duty in accordance with the provisions of this act or the rules and regulations of the state registrar, and shall be subject to the same penalties for neglect of duty as the local registrar. [Amendment approved May 18, 1917; Stats. 1917, p. 719.]

§ 5. **Burial permits. Removal permit. Body brought into state for burial.** The body of any person whose death occurs in this state, or which shall be found dead therein or which shall be brought in from outside the state, shall not be interred, deposited in a vault or tomb, cremated, disinterred or otherwise disposed of, or removed from or into any registration district, or be temporarily held pending further disposition more than seventy-two hours after death, unless a permit for burial, removal, or other disposition thereof shall have been properly issued by the local registrar of the registration district in which the death occurred or the body was found; provided, that nothing in this act shall be construed to prevent an undertaker from removing a body from the registration district where the death occurred or the body was found to a contiguous registration district in the same or an adjoining county in an undertaker's conveyance for the purpose of preparing said body for burial or shipment. A removal permit must be secured within forty-eight hours and before embalming the body. No body where

death occurred from any disease held by the state board of health to be infectious, contagious or communicable and dangerous to the public health shall be removed without first securing a removal permit in the manner provided in section nineteen of this act. And no such burial or removal permit shall be issued by any registrar until, wherever practicable, a complete and satisfactory certificate of death has been filed with him as hereinafter provided; provided, that when a dead body is transported from outside the state into a registration district in California for burial, the transit or removal permit, issued in accordance with the law and health regulations of the place where the death occurred, shall be accepted by the local registrar of the district into which the body has been transported for burial or other disposition, as a basis upon which he may issue a local burial permit, noting upon the face of the burial permit the fact that it was a body shipped in for interment, and giving the actual place of death; and no local registrar shall receive any fee for the issuance of burial or removal permits under this act other than the compensation provided in section twenty. [Amendment approved May 18, 1917; Stats. 1917, p. 720.]

§ 7. Certificate of death. Medical certificate. The certificate of death shall contain the following items, which are hereby declared to be necessary for the legal, social, and sanitary purposes subserved by registration records:

(1) Place of death, including state, county, township, village or city. If in a city, the ward, street, and house number; if in a hospital or other institution, the name of the same to be given instead of the street and house number. If in an industrial camp, the name of the camp to be given.

(2) Full name of decedent. If an unnamed child, the surname preceded by "unnamed."

(3) Sex.

(4) Color or race—as white, black, mulatto (or other negro descent), Indian, Chinese, Japanese, or other.

(5) Conjugal condition—as single, married, widowed or divorced.

(5a) Husband of ——.

(5b) Wife of ——.

(6) Date of birth, including the year, month, and day.

(7) Age, in years, months and days. If less than one day, the hours or minutes.

(8) Occupation. The occupation to be reported of any person, male or female, who had any remunerative employment with the statement of (a) trade, profession or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(9) Birthplace; at least state or foreign country, if known.

(10) Name of father.

(11) Birthplace of father; at least state or foreign country, if known.

(12) Maiden name of mother.

(13) Birthplace of mother; at least state or foreign country, if known.

(14) Signature and address of informant.

(15) Official signature of registrar, with the date when certificate was filed, and registered number.

(16) Date of death, year, month, and day.

(17) Certification as to medical attendance on decedent, fact and time of death, time last seen alive, and the cause of death, with contributory (secondary) cause of complication, if any, and duration of each, and whether attributed to dangerous or insanitary conditions of employment; signature and address of physician or official making the medical certificate.

(18) Length of residence (for inmates of hospitals and other institutions; transients or recent residents) at place of death and in California, together with the place where disease was contracted if not at the place of death, and former or usual place of residence (giving city and state of residence).

(19) Place of burial or removal; date of burial.

(20) Signature and address of undertaker or person acting as such and license number of embalmer.

The personal and statistical particulars (items one to thirteen) shall be authenticated by the signature of the informant who may be any competent person acquainted with the facts.

The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, and said physician shall within fifteen hours after the death deposit the certificate at the place of death, or deliver it to the attending undertaker at his place of business or at the office of said physician. Said physician shall specify in the certificate the time in attendance, the time he last saw the deceased alive and the hour of the day at which death occurred. And he shall further state the cause of death, so as to show the course of disease or sequence of causes resulting in the death, giving first the name of the disease causing death (primary cause) and the contributory (secondary) cause, if any, and the duration of each. Indefinite and unsatisfactory terms, denoting only symptoms of disease or conditions resulting from disease, will not be held sufficient for the issuance of a burial or removal permit; and any certificate containing only such terms, as defined by the state resigtrar, shall be returned to the physician or person making the medical certificate for correction and more definite statement. Causes of death which may be the result of either disease or violence shall be carefully defined; and if from violence, the means of injury shall be stated, and whether (probably) accidental, suicidal, or homicidal. And for deaths of nonresidents, transients or recent residents in hospitals or institutions, the physician shall supply the information required under this head (item eighteen) if he is able to do so, and shall state where, in his opinion, the disease was contracted. [Amendment approved May 18, 1917; Stats. 1917, p. 720.]

§ 10. **Wording of burial permit in case of burial within state.** If the interment, or other disposition of the body is to be made within the state, the wording of the burial or removal permit may be limited to a statement by the registrar, and over his signature, that a satisfactory certificate of death having been filed with him, as required by law, permission is granted to inter, remove, or dispose otherwise of the body,

stating the name, age, sex, cause of death, and other necessary details upon the form prescribed by the state registrar; provided, that the transit permit prescribed by the state board of embalmers may be used in lieu of said burial or removal permit. [Amendment approved May 18, 1917; Stats. 1917, p. 722.]

§ 13. Certificate of birth. Duty of father, mother, etc. Within thirty-six hours after the date of each birth, there shall be filed with the local registrar of the district in which the birth occurred a certificate of such birth, which certificate shall be upon the form adopted by the state board of health with a view to procuring a full and accurate report with respect to each item of information enumerated in section fourteen of this act.

In sparsely-settled districts or where there is no direct mail communication with the county seat a reasonable time shall be fixed by the local registrar.

In each case where a physician, or midwife, or person acting as midwife, was in attendance upon the birth, it shall be the duty of such physisian to file in accordance herewith the certificate herein contemplated.

In case no physician was in attendance it shall be the duty of the midwife or person acting as midwife to file such certificate.

In every case it shall be the duty of the father or mother of the child, the householder or owner of the premises where the birth occurred or th manager or superintendent of the public or private institution where the birth occurred, each in the order named, within ten days after the date of such birth, to report to the local registrar the fact of such birth. In such case and in case the physician, midwife, or person acting as midwife, in attendance upon the birth is unable, by diligent inquiry, to obtain any item or items of information contemplated in section fourteen of this act, it shall then be the duty of the local registrar to secure from the person so reporting, or from any other person having the required knowledge, such information as will enable him to prepare the certificate of birth herein contemplated, and it shall be the duty of the person reporting the birth or who may be interrogated in relation thereto to answer correctly and to the best of his knowledge all questions put to him by the local registrar which may be calculated to elicit any information needed to make a complete record of the birth as contemplated by said section fourteen, and it shall be the duty of the informant as to any statement made in accordance herewith to verify such statement by his signature, when requested so to do by the local registrar. [Amendment approved May 18, 1917; Stats. 1917, p. 722.]

§ 14. Items in certificate of birth. Certificate of physician or midwife. The certificate of birth shall contain the following items, which are hereby declared necessary for the legal, social, and sanitary purposes subserved by registration records:

(1) Place of birth, including state, county, township or town, village or city. If in a city, the ward, street and house number; if in a hosiptal or other institution, the name of the same to be given, instead of the street and house number.

(2) Full name of child. If the child dies without a name, before the certificate is filed, enter the words "died unnamed." If the living child

has not yet been named at the date of filing certificate of birth, the space for "full name of child" is to be left blank, to be filled out subsequently by a supplemental report, as hereinafter provided.

(3) Sex of child.

(4) Whether a twin, triplet, or other plural birth. A separate certificate shall be required for each child in case of plural births.

(5) For plural births, number of each child in order of birth.

(6) Date of birth, including the year, month, and day.

(7) Full name of father.

(8) Residence of father (giving city and state of residence).

(9) Color or race of father.

(10) Age of father at last birthday, in years.

(11) Birthplace of father; at least state or foreign country, if known.

(12) Occupation of father. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, profession, or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(13) Maiden name of mother.

(14) Residence of mother (giving city and state of residence).

(15) Color or race of mother.

(16) Age of mother at least birthday, in years.

(17) Birthplace of mother; at least state or foreign country, if known.

(18) Occupation of mother. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, profession, or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(19) Number of children born to this mother, including present birth.

(20) Number of children of this mother living.

(21) The certification of attending physician or midwife as to attendance at birth, including statement of year, month, day (as given in item seven), and hour of birth, and whether the child was born alive or stillborn. This certification shall be signed by the attending physician or midwife, with date of signature and address; if there is no physician or midwife in attendance, then by the father or mother of the child, householder, owner of the premises, or manager or superintendent of public or private institution where the birth occurred, or other competent person, whose duty it shall be to notify the local registrar of such birth, as required by section thirteen of this act.

(22) Exact date of filing in office of local registrar, attested by his official signature, and registered number of birth, as hereinafter provided. [Amendment approved May 8, 1917; Stats. 1917, p. 722.]

§ 18. **Forms and blanks. Records not to be changed.** The state registrar shall prepare and distribute all forms and blanks for use in registering, recording and preserving the returns, or in otherwise carrying out the purposes of this act; and shall prepare and issue such detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other forms or blanks shall be used than those prepared by the state registrar. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfac-

tory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. Whenever a certificate is returned by a local registrar other than the registrar of the district in which the deceased resided, in the case of a death, or in which the father and mother of a child reside, in the case of a birth certificate, if the place of residence is a city within this state and having at least two thousand five hundred inhabitants at the last federal census, the state registrar shall mail to the local registrar of such city of residence, a complete copy of the certificate. And all physicians, midwives, informants, undertakers, clergymen, or judges, and all other persons having knowledge of the facts, are hereby required to supply, upon the forms provided or upon the original certificate, such information as they may possess regarding any birth or death or marriage upon demand of the state registrar, in person, by mail, or through the local registrar; provided, that no certificate of birth or death or marriage, after its acceptance for registration by the local registrar, and no other record made in pursuance of this act, shall be altered or changed in any respect, except where supplemental information required for statistical purposes is furnished.

(a) **When facts not correctly stated. Preservation of certificates. Infectious diseases. Records of church associations, etc.** Whenever it may be alleged that the facts are not correctly stated in any certificate of birth, death, or marriage, already registered, the local registrar shall require an affidavit under oath to be made by the person asserting the fact, setting forth the changes necessary to make the record correct, and supported by the affidavit of one other credible person having knowledge of the facts. Having received such affidavits, the local registrar shall file them together with an amended certificate and he shall note the fact of the amendment with its date on the margin of the otherwise unaltered original certificate. He shall transmit the original certificate with the affidavits and amended certificate attached when making his regular monthly returns to the state registrar. He shall also retain copies for his files. If the correction relates to a certificate previously returned to the state registrar the local registrar shall forthwith transmit the affidavits to the state registrar. If the correction is first made in the state bureau of vital statistics the state registrar shall transmit a certified copy of the amended certificate to the local registrar.

The state registrar shall further arrange, bind and permanently preserve the certificates in a systematic manner and shall prepare and maintain a comprehensive and continuous card index of all births and deaths registered; said index to be arranged alphabetically, in the case of deaths, by the names of decedents, and in the case of births, by the names of fathers and maiden names of mothers, and in the case of marriages by the names of both grooms and brides. He shall inform all registrars what diseases are to be considered infectious, contagious, or communicable and dangerous to the public health, as decided by the state board of health, in order that when deaths occur from such diseases proper precautions may be taken to prevent their spread. If any cemetery company or association, or any church or historical society or association, or any other company, society or association, or any in-

dividual, is in possession of any record of births or deaths which may be of value in establishing the genealogy of any resident of his state, such company, society, association or individual, may file such record or a duly authenticated transcript thereof with the state registrar, and it shall be the duty of the state registrar to preserve such record or transcript and to make a record and index thereof in such form as to facilitate the finding of any information contained therein. Such record and index shall be open to inspection by the public, subject to such reasonable conditions as the state registrar may prescribe. If any person desires a transcript of any record filed in accordance herewith, the state registrar shall furnish the same upon application, together with a certificate that it is a true copy of such record, as filed in his office. [Amendment approved May 18, 1917; Stats. 1917, p. 724.]

§ 21. **Certified copies of records. Fee for searching files.** The state or local registrar shall forthwith upon request supply to any applicant a certified copy of the record of any birth or death or marriage registered under provisions of this act, for the making and certification of which he shall be entitled to a fee of fifty cents, to be paid by the applicant. And any such copy of the record of a birth or death or marriage when properly certified by the state or local registrar, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files and records when no certified copy is made the state registrar or local registrar shall be entitled to a fee of fifty cents for each hour or fractional hour of time of search, such fee to be paid by the applicant. The state registrar shall keep a true and correct account of all fees by him received under these provisions, and such money so received by the state registrar shall be deposited with the state treasurer, who shall credit the amount to the fund provided and to be used for the payment of the traveling and contingent expenses of the state board of health, and the money so collected by the local registrar shall be paid by him into the county or city treasury, as the case may be; provided, that the local registrar shall, upon request of any parent or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment; and provided, further, that the United States census bureau may obtain, without expense to the state, transcripts of births and deaths without payment of the fees herein prescribed.

(b) **Petition to court to establish record. Order of court. Form.** If, upon such search it shall develop that for any cause any birth or death, or marriage, occurring in this state was not registered in conformity with the provisions of law in effect at the time when such birth or death or marriage occurred by the filing of the certificate therefor with the local registrar within a period of one year from the date of the event, any person beneficially interested in establishing of record the fact of such birth or death or marriage may petition the superior court of the county in which such birth or death or marriage is alleged to have occurred for an order judicially establishing the fact of such birth or death or marriage. Such petition shall be verified and shall contain all the data necessary to enable the court, upon hearing the same, to

determine the fact of such birth or death or marriage upon the proofs adduced in behalf of the petitioner at the hearing thereof. A copy of such petition shall be served upon the local registrar of vital statistics, and also upon the district attorney of the county in which such birth or death or marriage is alleged to have occurred, and either of said officials shall have the right in his discretion to appear at such hearing and oppose the making of such order. Such hearing shall be had at such time as the court may appoint, not less than ten days subsequent to the date of filing such petition, and notice thereof must be given by publication for the same time and in the same manner required by law to be given prior to the hearing of the petition for the admission to probate of any will, or the issuance of letters testamentary or of administration thereon.

If, upon such hearing, the proofs of the allegations of the petition are established, to the satisfaction of the court, the court may make an order determining that such birth, death or marriage did in fact occur in such county and at the time shown by the proofs adduced upon such hearing.

Such order must be made in the form and upon the blank prescribed and furnished by the state registrar and but one birth, death or marriage may be included therein. And said order shall become effective upon the filing of a certified copy thereof with the local registrar of vital statistics, and the delivery therewith for transmittal to the state registrar of a standard certificate containing such facts and signatures as are obtainable, and upon the filing of a certified copy of said order with the state registrar. [Amendment approved May 18, 1917; Stats. 1917, p. 726.]

§ 23. Local registrars to enforce act. Duty of state registrar. Under the supervision and direction of the state registrar, each local registrar is hereby charged with the strict and thorough enforcement of the provisions of this act in his registration district. He shall make an immediate report to the state registrar of any violation of this law coming to his knowledge, by observation or upon complaint of any person, or otherwise.

The state registrar is hereby charged with the thorough and efficient execution of the provisions of this act in every part of the state, and is hereby granted supervisory power over local registrars, deputy local registrars, and subregistrars, to the end that all of its requirements shall be uniformly complied with. The state registrar, either personally or by an accredited representative, shall have authority to investigate cases of irregularity or violation of law. When the state board of health or its secretary shall deem it necessary, it or he shall report cases of violation of any of the provisions of this act to the prosecuting attorney of the county, with a statement of the facts and circumstances; and when any such case is reported to him by the state board of health or its secretary, the prosecuting attorney shall forthwith initiate and promptly follow up the necessary court proceedings against the person or corporation responsible for the alleged violation of law. And upon request of the state board of health or its secretary, the attorney general shall assist in the enforcement of the provisions of this act. [Amendment approved May 18, 1917; Stats. 1917, p. 727.]

TITLE 602a.

WAR.

ACT 4314.

An act to create a state council of defense to make investigations into the effect of the occurrence of war upon the civil and economical life of the people of the state of California; to recommend to the governor measures to provide for the public security, the better protection of public health, a fuller development of the economic resources of the state and the encouragement of military training; to impose upon public officers certain duties in connection herewith; and to make appropriation for the purposes of this act.

[Approved March 29, 1917. Stats. 1917, p. 24. In effect immediately.]

§ 1. **State council of defense created.** There is hereby created a council, known as the state council of defense to consist of not more than thirty-three members who shall be appointed by the governor, to serve at his pleasure, from among those holding public office under the state of California, from among the personnel of the army and navy of the United States and other branches of the national administration with the consent of federal authority, from members of the staff of the University of California and from qualified citizens of the state and nation.

§ 2. **Duties.** It shall be the duty of the state council of defense at once to take under consideration the effects of the occurrence of war upon the people of the state of California; to consider measures for public defense and security, for the protection of routes of communication, for the betterment and protection of public health, for the public care and assistance of individuals and classes upon whom the hardships occasioned by war would fall most heavily, for the fuller development of the resources of the state, particularly those from which are derived the supplies of food and other commodities upon which the conduct of war makes especial drain; to encourage the military training of the citizens of the state; to examine into measures to increase the public revenue to meet war demands and to effect the elimination of waste and extravagance; and to consider measures to be taken to meet the exigencies of all situations occasioned by war.

§ 3. **Officers.** The governor shall be ex-officio chairman of the state council of defense. He shall designate the vice chairman, and shall appoint an executive committee and such subcommittees as he shall deem advisable. He shall have power to employ such assistance and to make such expenditures as he may deem necessary to carry out the purposes of this act. He may, when he deems it expedient, dissolve the state council of defense or cause its activities to be suspended or terminated.

§ 4. **Compensation.** Members of the state council of defense shall serve without pay, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties hereunder; provided, however, that the vice-chairman shall devote his entire time

to the work of the state council of defense and shall receive such compensation as the governor may determine.

§ 5. **Headquarters.** The headquarters of said council shall be in the state capitol, but the governor may establish branch offices elsewhere and may call meetings to be held at such times and places as he may deem expedient. It shall be the duty of every public officer, board, or commission of the state of California to render to the governor and to the state council of defense, at the request of the governor, all possible assistance and to make such investigations and supply such data as the governor may at any time require.

§ 6. **Appropriation.** The sum of one hundred thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to carry out the purposes of this act. The state controller is hereby authorized and directed to draw his warrants in favor of the governor from time to time in such sums as the governor may designate, and the state treasurer is hereby authorized and directed to pay the same. This appropriation is hereby exempted from the operation of the provisions of section six hundred seventy-two of the Political Code; provided, however, that no liability in excess of one hundred dollars shall be incurred without the approval of the governor; and provided, further, that the state council of defense shall submit to the legislature, through the governor, a report including as full a statement of the activities of the council as is consistent with the public interest, together with an account of the expenditures made by the council, or authorized by it, in as full detail as the public interest will permit.

§ 7. **Urgency measure.** Inasmuch as the President of the United States has called the congress to meet in special session to consider measures for the national defense and has summoned the national guard of the state of California, it is hereby declared that this act is necessary for the immediate preservation of the public peace and safety, and that under the provisions of section one of article four of the constitution an urgency exists, and this act shall take effect immediately.

TITLE 607.

WATER COMMISSIONERS.

ACT 4340.

An act to regulate the use of water which is subject to such control by the state of California, and in that behalf creating a state water commission; specifying and providing for the appointment of the members of said commissions; fixing the terms of office and compensation of the members of said commission; fixing the powers, duties and authority of said commission and its members; providing for the filling of vacancies in the membership of said commission; providing for the removal from office of the appointed members of said commission; providing for the co-operation of courts with said commission; providing that certain courts shall take judicial notice of certain acts of the state water commission; specifying the duties

of all persons summoned as witnesses before said commission or any of its members; appropriating money for carrying out the provisions of this act; providing for the payment of the indebtedness and expenses of said commission, its members and employees; declaring what water is unappropriated; providing for the utilization of water and the works necessary to such utilization to the full capacity of streams or of such portion or portions of such capacity as the public good may require, declaring what water may be appropriated; declaring that the nonapplication for ten consecutive years of any portion of the waters of any stream to lands riparian to such stream shall be conclusive presumption that the use of such nonapplied water is not needed on said riparian lands for a useful or beneficial purpose; declaring that such nonapplied water shall be deemed to be in the use of the state and subject to appropriation; declaring the duties of those who desire to appropriate water; declaring the periods for which water may be appropriated and the conditions under which water may be appropriated; providing for the payment of fees and charges by the applicants for permission to appropriate water and by the appropriators of water; providing for the ascertainment and adjudication of water rights; providing for the bringing of actions by certain persons, or, upon the direction of the state water commission, by the attorney general, for the quieting of title to water rights; specifying certain duties of the claimants, possessors or users of water or water rights; declaring water rights forfeited under certain conditions; regulating the appropriation of water; excepting cities, cities and counties, municipal water districts, irrigation districts and lighting districts from certain provisions of this act; defining certain words and terms used in this act; repealing all acts or parts of acts in conflict with this act; declaring how this act shall be known; making legislative declaration concerning those parts of this act which may not be declared unconstitutional.

[Approved June 16, 1913. Stats. 1913, p. 1012.]

Amended 1917; Stats. 1917, pp. 194, 195, 231, 284, 746.

The amendments of 1917 follow:

§ 15. **Use of unappropriated water.** The state water commission shall allow, under the provisions of this act, the appropriation for beneficial purposes of unappropriated water unless, in the opinion of the said commission, such appropriation would be detrimental to the public welfare. [Amendment approved April 25, 1917; Stats. 1917, p. 194.]

§ 15a. **Appropriation of water for use in another state.** The state water commission shall allow the appropriation of water in this state for beneficial use in another state only when, under the laws of the latter, water may be lawfully diverted therein for beneficial use in the state of California. Upon any stream flowing across the state boundary a right of appropriation having the point of diversion and the place of use in another state and recognized by the laws of that state, shall have the same force and effect as if the point of diversion and the place of use were in this state; provided, that the laws of that state give like

force and effect to similar rights acquired in this state; provided, that nothing in this act be so construed as to apply to interstate lakes, or streams flowing in or out of such lakes. [New section added May 7, 1917; Stats. 1917, p. 284.]

§ 20. Terms and conditions of permits and licenses. City, etc., may purchase works. Determination of price. Grounds for revoking license. Findings of commission prima facie correct. Conditions of accepting permit. Cities first in right. City may become public utility. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that at any time after the expiration of twenty years after the granting of a license, the state or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property cannot agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee

under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the state of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and provided, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings. [Amendment approved May 19, 1917; Stats. 1917, p. 746.]

§ 20a. **Water not used for three years.** When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of three years, such

unused water shall revert to the public and shall be regarded as unappropriated public water. [New section added May 19, 1917; Stats. 1917, p. 746.]

§ 23. **Fee. For electrical power. For agricultural purposes.** Every person, firm, association or corporation making application for a permit to appropriate water or the use of water under this act shall pay to the state water commission, at the time of filing said application, a filing fee in the sum of five dollars, and, upon the issue of a permit, the additional fee, if the purpose or use is for the generation of electricity or electrical or other power, of ten cents for each theoretical horse-power capable of being developed by the works up to and including one hundred theoretical horse-power, of five cents for each horse-power in excess of one hundred theoretical horse-power up to and including one thousand theoretical horse-power, and of one cent for each theoretical horse-power in excess of one thousand theoretical horse-power; also, if for agricultural purposes, of five cents for each acre of land to be irrigated by means of said appropriation to and including one hundred acres, of three cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and of two cents for each acre over one thousand acres. All fees shall forthwith be paid into the state treasury by the state water commission. No fee shall be required from any person, firm, association, or corporation exempt by any law of the state of California from the payment of such fee. [Amendment approved April 25, 1917; Stats. 1917, p. 195.]

§ 24. **Water commission may act as referee.** In case suit is brought in the superior court for determination of rights to water or the use of water, the case may, in the discretion of the court, be transferred to the state water commission for investigation, as referee. [Amendment Approved May 5, 1917; Stats. 1917, p. 231.]

§ 25. **Determination of water rights by commission.** Upon its own initiative or upon petition signed by one or more claimants to water or the use of water upon any stream, stream system, lake, or other body of water, all of which sources of supply are hereinafter referred to as "stream system," requesting the determination of rights, based upon prior appropriation, of the various claimants to the water of that stream system, it shall be the duty of the state water commission, if, upon investigation, it finds the facts and conditions are such as to justify, to enter an order granting said petition and to make proper arrangements to proceed with such determination. [Amendment approved May 5, 1917; Stats. 1917, p. 231.]

§ 26. **Notice of order. Publication.** As soon as practicable after the state water commission shall make and enter the order granting the said petition or selecting the stream system upon which the determination of water rights by appropriation is to begin, it shall prepare a notice setting forth the fact of the entry of said order and of the pendency of the said proceedings, the date when the state water commission shall begin said examination, and that all claimants to rights by appropriation of

the waters of said stream system are required, as in this act provided, to make proof of their claims. The notice shall be published for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. [Amendment approved May 5, 1917; Stats. 1917, p. 231.]

§ 27. **Investigation of flow of stream system, etc. Surveys and maps.** At the time set in said notice, the state water commission shall begin an investigation of the flow of the stream system and of the conduits diverting water, and of the lands irrigated or irrigable therefrom, and shall gather such other data and information as may be essential to the proper determination of the water rights by appropriation. It shall reduce its observations, data, information and measurements to writing. It shall execute surveys and shall prepare maps from the observations of such surveys in accordance with such uniform rules and regulations as it may adopt; which surveys and maps shall show with substantial accuracy the course of the stream or streams; the location of each conduit diverting water therefrom, land irrigated and capable of being irrigated by each conduit, and the kind of culture upon the irrigated land. The maps shall be prepared as the surveys and observations progress, and, when completed, it shall be filed and made of record in the office of the state water commission. [Amendment approved May 5, 1917; Stats. 1917, p. 232.]

§ 28. **Notice of time for filing proofs. Publication.** Upon the completion of such measurements and maps, and the filing of said observations, data, information and measurements, the state water commission shall prepare a notice setting forth the date, prior to which the proofs, to be furnished by claimants upon forms supplied by the state water commission and more specifically referred to in the next section hereof, as to the rights by appropriation of the waters of said stream system, shall be filed; provided, however, that the date set, prior to which said proofs must be filed, shall not be less than sixty days from the date of the last publication of said notice as hereinafter provided. The notice shall be deemed to be an order of the state water commission as to its contents, and it shall be published by the state water commission for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. At or near the time of the first publication of said notice it shall be the duty of the state water commission to send by registered mail to each claimant to rights by appropriation of the waters of said stream system, in so far as such claimant can be reasonably ascertained at his last known place of address, a notice equivalent in terms to the said published notice. [Amendment approved May 5, 1917; Stats. 1917, p. 232.

§ 29. **Forms to be sent claimant.** The state water commission shall, in addition, inclose with the notice to be mailed as aforesaid, blank forms, proofs of appropriation, upon which said claimant shall present in writing all particulars necessary for the determination of his right by

appropriation of the waters of said stream system, the said statement to include the following:

(a) The name and postoffice address of the claimant.

(b) The nature of the right or use on which the claim for appropriation is based.

(c) The date of the initiation of such right and a description of works of diversion and distribution.

(d) The date of beginning of construction.

(e) The date when completed.

(f) The dates of beginning and completion of enlargements.

(g) The dimensions of the ditch as originally constructed and enlarged.

(h) The date when water was first used for irrigation or other beneficial purposes, and if used for irrigation, the amount of land irrigated the first year, the amount in subsequent years, with the dates of irrigation and the area and the location of the lands which are intended to be irrigated.

(i) The character of the soil and the kind of crops cultivated, and such other facts as will show the extent and nature of the right and a compliance with the law in acquiring the same, as may be required by the state water commission. Each claimant shall be required to certify to his statements, under oath. [Amendment approved May 5, 1917; Stats. 1917, p. 232.]

§ 30. Determination of right on failure to make proof. After the date fixed for the filing of proofs, no proofs shall be received or filed with the state water commission; provided, however, that the state water commission may, for cause shown, in its discretion, extend the time in which proofs may be filed. Upon neglect or refusal of any person to make proof of his claim to rights by appropriation of the waters of such stream system, as required by this act, prior to the expiration of the period fixed by the state water commission, during which proofs may be filed, the state water commission shall determine the right by appropriation of such person on such evidence as it may obtain or may have on file in its office in the way of maps, plats, surveys and transcripts; and exceptions to such determination may be filed in court as hereinafter provided. [Amendment approved May 5, 1917; Stats. 1917, p. 233.]

§ 31. Petition to intervene in proceedings. Any claimant of a right by appropriation of the water of any stream system upon whom no service of notice shall have been had of the pendency of proceedings for the determination of the rights by appropriation of the waters of said stream system, and who shall have had no actual knowledge or notice of the pendency of said proceedings, may at any time prior to the expiration of three months after the entry of the determination of the state water commission, as provided in section thirteen of this act, file a petition to intervene in said proceedings. Such petition shall be under oath and shall contain, among other things, all matters required by this act of claimants who have been duly served with notice of said proceedings, and also a statement that the intervener had no actual knowledge or notice of the pendency of said proceedings. Upon the filing of said petition in intervention, the petitioner shall be allowed to intervene and

thereafter shall have all the rights and be subject to all the duties of the claimants who have been duly served. [Amendment approved May 5, 1917; Stats. 1917, p. 233.]

§ 32. **Fees collected from claimants.** At the time of submission of proof of appropriation, the state water commission shall collect from such claimants, on the basis of the statements in the proofs, a fee of fifteen cents for each acre of irrigated or irrigable lands up to and including one hundred acres, ten cents for each acre in excess of one hundred acres and up to and including one thousand acres, and five cents per acre for each acre in excess of one thousand acres; also twenty-five cents for each theoretical horse-power up to and including one hundred horse-power, fifteen cents for each theoretical horse-power in excess of one hundred horse-power and up to and including one thousand horse-power, and five cents for each theoretical horse-power in excess of one thousand horse-power; also five (5) dollars for each cubic foot per second, or fraction thereof, claimed for any purpose other than irrigation or power; the minimum fee, however, for any claimant to be five (5) dollars. All fees charged and collected under this section shall be paid, at least once each month, accompanied by a detailed statement thereof, into the treasury of the state. [Amendment approved May 5, 1917; Stats. 1917, p. 234.]

§ 33. **Printed abstract of proofs. Inspection.** As soon as practicable after the expiration of the period fixed in which proofs may be filed, the state water commission shall assemble all proofs which have been filed, and prepare and certify an abstract of all of the said proofs, which shall be printed in the state printing office. As soon as practicable the state water commission shall prepare a notice fixing and setting a time and place, reasonably convenient to the claimants, when and where the evidence taken by or filed with it shall be open to the inspection of all interested persons, said period of inspection to be not less than ten (10) days, which notice shall be deemed to be an order of the state water commission as to the matters contained therein. A copy of said notice, together with a printed copy of the said abstract of proofs, shall be sent by registered mail, at least fifteen (15) days prior to the first day of such period of inspection, to each claimant who has appeared and filed proof as herein provided. A representative of the state water commission shall be present at the time and place designated in said notice, and allow, during said period, any person interested to inspect such evidence and proofs as have been filed in accordance with this act. [Amendment approved May 5, 1917; Stats. 1917, p. 234.]

§ 34. **Contest of statements and proofs of claims.** Should any claimant desire to contest any of the statements and proofs of claims filed with the state water commission by any other claimant to the waters of the stream system, he shall, within fifteen (15) days after said evidence and proofs shall have been opened to public inspection, or within such further time as for good cause shown may be allowed by the state water commission upon application made prior to the expiration of said fifteen (15) days, in writing, notify the state water commission, stating with

reasonable certainty the grounds of the proposed contest, which statement shall be verified by the affidavit of the contestant, his agent or attorney. The statements or proofs of the person whose rights are contested and the verified statement of the contestant shall be deemed sufficient to constitute a proper cause for such contest. [Amendment approved May 5, 1917; Stats. 1917, p. 234.]

§ 35. **Hearing of contest. Costs.** Within ten (10) days after the receipt of the notice of contest the state water commission shall notify by registered mail the contestant and the claimant whose rights are contested to appear before it at a time and place specified in said notice, and that at said time and place said contest will be heard; provided, that said time shall not be less than fifteen (15) days nor more than sixy (60) days from the date of the mailing of the notice of the commission. The state water commission shall have power to adjourn hearings of contests from time to time upon reasonable notice to all parties in interest, and to issue subpoenas for and compel the attendance of witnesses to testify before it and to produce papers, books, maps, and other documents. The costs of taking testimony at a hearing shall be borne by the parties thereto as follows: each party shall pay for the direct examination of his own witness and the cross-examination of opponent's witness and shall share equally for that part of the examination directed by the representative of the commission. One copy of the transcript of testimony taken at the hearing shall be furnished to the commission and the cost thereof borne equally by the parties. [Amendment approved May 5, 1917; Stats. 1917, p. 235.]

§ 36. **Order of determination.** As soon as practicable after the hearing of contests, it shall be the duty of the state water commission to make, and cause to be entered of record in its office, an order determining and establishing the several rights by appropriation of the waters of said stream; provided, however, that within sixty (60) days after the entry of an order establishing water rights, the state water commission may, for good cause shown, reopen the proceedings and grant a rehearing. Such order and determination shall be prepared, and after certification by the state water commission, printed in the state printing office. A copy of said order of determination shall be sent by registered mail to each person who has filed proof of claim, and to each person who has become interested through intervention or as a contestant under the provisions of section eight or section eleven of this act. [Amendment approved May 5, 1917; Stats. 1917, p. 235.]

§ 36a. **Filing of order, etc., with clerk of superior court. Order setting time for hearing.** As soon as practicable, after the entry of the order of determination, a certified copy thereof, together with the original evidence and transcript of testimony filed with, or taken before the state water commission, as aforesaid, duly certified by it, shall be filed with the clerk of the superior court of the county in which said stream system, or any part thereof, is situated. Upon the filing of the certified copy of said order, evidence, and transcript with the clerk of the court in which the proceedings are to be had, the state water commission shall

procure an order from said court setting a time for hearing. The clerk of such court shall immediately furnish the state water commission with a certified copy of said order. It shall be the duty of the state water commission immediately thereupon to mail a copy of such certified order of the court, by registered mail, addressed to each known party in interest at his last known place of residence, and to cause the same to be published at least once a week for four consecutive weeks in some newspaper of general circulation published in each county in which such stream system or any part thereof is located, and the state water commission shall file with the clerk of the court proof of such service by registered mail and by publication. Such service by registered mail and by publication shall be deemed full and sufficient notice to all parties in interest of the date and purpose of such hearing. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36b. Filing of notice of exceptions. Decree affirming order. Hearing of exceptions. When state a party. At least ten days prior to the day set for hearing, all parties in interest who are aggrieved or dissatisfied with the order of determination of the state water commission shall file with the clerk of said court notice of exceptions to the order of determination of the state water commission, which notice shall state briefly the exceptions taken, the reasons therefor, and the prayer for relief, and a copy thereof shall be transmitted by registered mail at least ten (10) days prior to such hearing, to the state water commission and to each claimant, who was an adverse party to any contest wherein such exceptor was a party in the proceedings. The order of determination by the state water commission and the statements or claims of claimants and exceptions made to the order of determination shall constitute the pleadings but the court may allow such additional or amended pleadings as may be necessary to a final determination of the proceeding. If no exceptions shall have been filed with the clerk of the court as aforesaid, then on the day set for the hearing, on motion of the state water commission, or its attorney, the court shall enter a decree affirming said order of determination. On the day set for hearing all parties in interest who have filed notices of exceptions as aforesaid shall appear in person, or by counsel, and it shall be the duty of the court to hear the same or set the time for hearing, until such exceptions are disposed of, and all proceedings thereunder shall be as nearly as may be in accordance with the rules governing civil actions. Whenever in the judgment of the court the state is a necessary party to the action, the court shall make an order to that effect and thereupon a copy of all pleadings and proceedings on file with the court in said matter shall be served upon the attorney general who shall represent the state therein. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36c. Decree determining right of all persons involved. Appeals. For further information on any subject in controversy, the court may employ one or more qualified persons to investigate and report thereon under oath, subject to examination by any party in interest as to his competency to give expert testimony thereon. The court may take additional evidence on any issue and may, if necessary, refer the case for

such further evidence to be taken by the state water commission as it may direct, and may require a further determination by it. After the hearing, the court shall enter a decree determining the right of all persons involved in such proceeding. Said decree shall in every case declare as to the water right by appropriation adjudged to each party, the extent, priority, amount, purpose of use, point of diversion, and place of use of said water; and as to water used for irrigation, such decree shall also declare the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be necessary to define the right and its priority. Upon the hearing the court may assess and adjudge against any party such costs as it may deem just. Appeals from such decree may be taken to the supreme court by the state water commission or any party in interest, in the same manner and with the same effect as in civil cases. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36d. **Decree filed with county recorder. Certificate to claimant.** A certified copy of the decree of the superior court shall be prepared by the clerk thereof, without charge, and filed for record in the office of the county recorder of each county in which any part of the stream system is situated and also in the office of the state water commission. It shall be the duty of the state water commission to issue to each claimant represented in such determination a certificate to be signed by the president of the state water commission, and attested under seal of the secretary of said commission, setting forth the name and postoffice address of the owner of the right; the priority of the date, extent and purpose of such right; and, if such water be for irrigation purposes, a description of the legal subdivisions of land to which said water is appurtenant. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36e. **Claimant failing to appear forfeits rights.** Whenever proceedings shall be instituted for the determination of rights by appropriation of water, it shall be the duty of all claimants interested therein and having notice thereof as in this act provided, to appear and submit proof of their respective claims at the time and in the manner required by law; and any such claimant who shall fail to appear in such proceedings and submit proof of his claim shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream system, embraced in such proceedings, and shall be held to have forfeited all rights by appropriation to said water theretofore claimed by him on such stream system, unless entitled to relief under the laws of this state; provided, that such proceedings shall result in a determination by the state water commission and a decree by the superior court determining the rights on such stream. Such decree shall be conclusive as to the rights by appropriation of all existing claimants upon the stream system lawfully embraced in the determination. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36f. **Determination of rights initiated prior to December 19, 1914. Review of findings.** The state water commission shall have authority and power in making a determination as to the rights by appropriation

of the waters of any stream system, to fix a time limit for the completion of all appropriations of water from such stream, where such rights of appropriations were initiated prior to December 19, 1914, and since prosecuted with reasonable diligence, and such appropriators having been duly notified as provided in this act, must appear and submit their proofs of claim, in accordance with section twenty-eight of this act, or they shall be deemed and held to be in default, and to have abandoned or to have no right, title or interest in or to the waters of such stream. In determining rights of such appropriators, the state water commission shall prescribe such a reasonable time for the completion of such appropriations, and the application of the water appropriated to a beneficial use, as will enable such appropriators acting in good faith and with due diligence to complete the same. The findings of the state water commission shall provide for the submission of proof or evidence as to the completion of such appropriation and the amount of water actually applied to beneficial use upon the expiration of such time limit, and shall, in accordance with such proof, enter supplemental findings, establishing and determining such rights of appropriation, in so far as the same shall have been completed; and certificates of water right shall be issued in accordance with such supplemental findings and order of determination of said commission; but this section shall not be construed to confer any rights of appropriation upon parties who shall have abandoned their said appropriations or failed to use due diligence in the application of the water to a beneficial use and in the completion of their appropriations; and all such appropriators, who shall fail to complete their said appropriations within the limit of time fixed by the state water commission in said findings, or such further time granted upon application made prior to the expiration of such time limit, as the state water commission shall find equitable and just, shall be deemed to have abandoned their rights of appropriation, and rights acquired by virtue thereof waived, and such appropriators shall be deemed and held to have no right, title or interest in or to the waters of such stream by virtue of their said appropriations. The findings and determination of the state water commission made under the provisions of this section may be reviewed in the manner prescribed by section thirty-six *b* of this act. [New section added May 5, 1917; Stats. 1917, p. 236.]

TITLE 608.

WATER COMPANIES.

ACT 4348b.

An act to prevent the supply of water dangerous to health for domestic purposes and to provide for the installation of sanitary water systems.

[Approved June 13, 1913. Stats. 1913, p. 793.]

Amended 1915, p. 1282; 1917, p. 1562.

The amendment of 1917 follows:

§ 1. Unlawful to supply polluted water. It shall be unlawful for any person, firm, corporation, public utility, municipality or other public

body or institution to furnish or supply or to continue to furnish or supply water used or intended to be used for human consumption or for domestic uses or purposes which is impure, unwholesome, unpotable, polluted, or dangerous to health, to any person in any county, city and county, municipal corporation, village, district, community, hotel, temporary or permanent resort, institution or industrial camp. [Amendment approved June 1, 1917; Stats. 1917, p. 1562.]

§ 2. **Persons desiring to furnish water to file petition. Investigation of works. Exemption. Hearing.** Whenever any person, firm, corporation, public utility, municipality or other public body or institution shall desire to furnish or supply or to continue to furnish or supply water for domestic uses or purposes to any person in any county, city and county, municipal corporation, village, district, community, hotel, temporary or permanent resort, institution or industrial camp, or shall desire to install, add to, modify or alter any of the plant, works, system or sources of supply, it or he shall file as herein provided with the state board of health a petition for permission so to do, together with complete plans and specifications and a statement containing a general description and history of the existing or proposed water supply system of proposed changes therein showing the geographical location thereof with relation to the source of the water supply and all the sanitary and health conditions surrounding and affecting said supply and the works, system and plant, such plans, specifications and general statement to be in such form and to cover such matters as the state board of health shall prescribe. Thereupon a thorough investigation of the proposed or existing works, system, plant, water supply and all other circumstances and conditions by it deemed to be material must be made by the state board of health; and provided, however, that no person, firm or corporation supplying water for domestic purposes or use on his or its private property upon which there is no industrial camp, hotel, temporary or permanent resort using said water, or supplying less than two hundred service connections, shall be required to apply for a permit under the provisions of this section, except upon formal complaint filed with the state board of health.

As a part of such investigation, and after ten days' notice by mail to the petitioner, a hearing or hearings may be had before said board or an examiner appointed by it for the purpose. At such hearing or hearings witnesses who testify shall be sworn by the person conducting the hearing, and evidence, oral and documentary, may be received, a record of which shall be made and filed with said board. Upon the completion of such investigation, said board:

(a) **When petition shall be denied. Appointment of person to take charge of plant. Temporary permit.** If it shall determine, as a fact, that the water being furnished or to be furnished or supplied is such that under all the circumstances and conditions it is impure, unwholesome or unpotable, or may constitute a menace or danger to the health or lives of human beings, or that under all the circumstances and conditions the existing or proposed works, system, plant or water supply, or proposed modifications therein, are unhealthful or insanitary, or not suited to the production and delivery of healthful, pure and wholesome

water at all times, it shall deny the prayer of such petitioner, and said board shall order the petitioner to make such changes as it deems necessary to secure a continuous supply of pure, wholesome, potable and healthful water. Said board may order the appointing of a competent person, to be approved by the state board of health and paid by said petitioner, who shall take charge of and operate such plant or system so as to secure the results demanded by the state board of health; and it may order such repair, alteration or addition to the existing system, plant and works that the water furnished or supplied shall at all times be pure, wholesome, potable and shall not endanger the lives or health of human beings; and said board may order such changes of source of the water supply or installation of purification and refining works and such other measures as shall insure a continuous supply of pure, wholesome and potable water which shall not endanger the lives and health of human beings; which orders shall designate the period within which the required changes are to be made; provided, however, that a temporary permit may be issued by the state board of health for said period to permit the petitioner to comply with such order or orders.

(b) **When petition shall be granted. Permits revocable. Report may be required. Persons without permit may be enjoined. Public nuisance. Penalty for violation.** If it shall determine, as a fact, that the water being furnished or supplied to such human beings is such, that under all the circumstances and conditions, it is pure, wholesome and potable and does not endanger the lives or health of human beings, it shall grant to petitioner a permit authorizing petitioner to furnish or continue to furnish or supply such water to such human beings; provided, however, that all permits issued hereunder shall be revocable or subject to suspension by said board at any time that it shall determine, as a fact, that the water being supplied or furnished is or may become impure, unwholesome or unpotable or does or will endanger the lives or health of human beings. The state board of health and its inspectors shall at any and all reasonable times have full power and authority to, and shall be permitted to, enter into and upon any and all places, property, inclosures and structures for the purpose of making and to make examinations and investigations to determine whether any provision of this act is being violated. The holder of any permit granted by said board under the provisions of this act may at any time by order of said board be required to furnish to said board, upon demand, a complete report upon the condition and operation of the water supply, plant, works or system owned, operated or controlled by it, which report shall be made by some competent person designated for the purpose by said board, and at the sole cost and expense of the holder of the permit. Any person, firm, corporation, public utility, municipality or other public body or institution who shall furnish or supply or continue to furnish or supply water used or intended to be used for human consumption or for domestic uses or purposes, or shall install additions to, modifications or alterations in, any of the existing plant, works, system, or sources of supply without having an unrevoked permit from the state board of health so to do, as in this act provided, may be enjoined from so doing by any court of competent jurisdiction, at the suit of any person or persons, firm, corpo-

ration, municipal or other public corporation whose supply of water for human consumption or for domestic uses or purposes is taken, or received from, or supplied or furnished by any such water furnishing or distributing person, firm, corporation, public utility or municipality or other public body or institution, or it or he may be enjoined at the suit of the state board of health in the same manner. Anything done, maintained or suffered in violation of any of the provisions of this act shall be deemed to be a public nuisance dangerous to health and may be summarily abated in the manner provided by law and it shall be the duty of all and every public officer or officers, body or bodies lawfully empowered so to do to immediately abate the same.

Every person, firm, corporation, public utility, municipality, or other public body or institution, or officer, employee or agent thereof upon whom the duty to act is cast, and every person who shall violate any provision or part thereof of this act, or who shall fail to obey, observe or comply with any direction, order, requirement or demand or any part or provision thereof of the state board of health, or who procures, aids, or abets any such person, firm, corporation, public utility, municipality, or other public body or institution, or officer or employee or agent thereof, in any failure to obey or comply with the provisions of this act or the orders of the state board of health as provided in this act, shall become liable for and forfeit to the state of California the penal sum of not more than one thousand dollars for each separate offense. The continued existence of any violation of this act for each and every day beyond the time stipulated for compliance with any of its provisions or of any order of the state board of health as provided herein shall constitute a separate and distinct offense. All penalties are to be recovered by the state in civil action brought by the state of California and such penalties when collected shall be paid into the general fund of the state treasury.

Every officer, agent or employee of any person, firm, corporation, public utility, municipality, or other public body or institution or person who shall violate or fail to comply with any of the provisions of this act or the order of the state board of health or any part thereof, or who procures, aids or abets in any failure to observe and comply with any such provision, order, or part thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year or by both such fine or imprisonment, for each offense. Each day's violation of this provision shall constitute a separate and distinct offense.

TITLE 609.

WATER DISTRICTS.

ACT 4349.

An act to provide for the incorporation and organization and management of county water districts, and to provide for the acquisition of water rights or construction thereby of waterworks and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts.

[Approved June 10, 1913. Stats. 1913, p. 1049.]

Amended 1915, p. 26; 1917, p. 225.

§ 28. Exclusion of territory. Petition. Contents. Duties of secretary. Hearing. Order excluding lands. Directors may institute proceedings for exclusion. Hearing. Referendum. Any territory, included within any county water district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said county water district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the water district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars, to meet the expenses of advertising and other costs incident to the proceedings for the exclusion of such territory, including the cost of recording a certified copy of the order hereinafter provided for, any unconsumed balance to be returned to the petitioner. Upon the filing of such petition with the secretary of the water district he shall call a meeting of the board of directors of the district at a time not less than twenty-five days nor more than fifty days after the filing of the petition and cause a notice of the filing of such petition to be published for at least two weeks in some newspaper of general circulation within said district, if there be one, and if not, in some newspaper of general circulation published in the county in which the district is situated. Such notice shall also state the date of the filing of such petition and that the same will come on for hearing before the board of directors of the district and shall state the time of the hearing and the place thereof, which shall be the regular meeting place of the board of directors of the district; provided, that the board may adjourn the hearing to a more convenient meeting place within the district. Any land owner or taxpayer within the district shall have the right to appear at said hearing, either in behalf of or in opposition to the granting of said petition. Said petition shall come on for hearing before the board of directors of the district at the time and place specified in the notice of hearing. If upon such hearing the board of directors determines that it is for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if it appears that such lands, or some portion thereof, will not be benefited by their continued inclusion in the district, then the board of directors shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the lands so excluded. From the time of the making of such order the lands so excluded shall be deemed to be no longer included in the district, but such order of exclusion shall not be taken to invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded. A copy of such order of exclusion, certified to by the secretary of the district, shall be recorded in the office of the county recorder of the county in which the district

is situated and the record of such certified copy shall be deemed prima facie evidence of the exclusion from the district of the lands purporting to be excluded thereby.

The board of directors of any county water district formed under the provisions of this act may itself initiate the proceedings for the exclusion from the district of any land or lands which it may not be for the best interests of the district to be included, or which may not be benefited in any manner by their continued inclusion therein. Such proceedings shall be initiated by the board of directors by the passage of a resolution requiring all persons interested to appear and show cause before the board of directors, at a time and place specified, why such lands, describing them, should not be excluded from the district and fixing a time and place for such hearing and directing the secretary of the district to give notice of the passage of such resolution and of such hearing. Upon the passage of such resolution the secretary of the district shall give notice thereof and of the time and place of such hearing in the manner hereinbefore prescribed for notice of hearing upon petition by a land owner or land owners, and thereafter all proceedings shall be had in the manner and with the effect herein provided for proceedings upon a petition by a land owner or land owners. The time of hearing fixed by the board of directors by its resolution hereinbefore mentioned shall be not less than twenty-five days nor more than fifty days after the passage of such resolution and the place of hearing so fixed shall be a convenient place within the district; provided, that the final action of the board of directors under this section shall be subject to the referendum by the electors of the water district according to section twenty-four of this act. [New section added May 4, 1917; Stats. 1917, p. 225.]

ACT 4349a.

An act providing for the organization of water districts by the board of supervisors of the different counties of the state upon petition therefor by the land owners; providing for the joint government and control thereof by the land owners thereof and the board of supervisors of the county in which the same are formed; providing for the duties in connection therewith of the county officials of each county in which any of the lands contained in said district are located; providing for the acquisition and construction by said district of irrigation works, for the irrigation of the lands embraced therein and for the distribution thereby of water for irrigation purposes; providing for the payment of the debts thereof by a tax levied on the lands embraced therein; providing for the issuance and sale of bonds thereby; providing that said bonds may be investigated by an appointive board of three hydraulic engineers; providing for the approval of said bonds by the state superintendent of banks in case said investigation is favorably reported and that thereafter said bonds may be lawfully purchased, or received in pledge as security for any money or deposits or for the performance of any act, by banks, banking institutions, insurance companies, trust companies, guardians, executors, administrators and special administrators; providing in certain cases for the transfer of dis-

tricts from the supervision of one county board of supervisors to another; and providing for the dissolution of said districts for non-user of corporate power.

[Approved June 13, 1913. Stats. 1913, p. 815.]

Amended 1917, p. 1408.

The amendment of 1917 follows:

§ 35. **County assessment-roll may be adopted.** The board of directors of any district hereafter organized hereunder may at their option adopt the assessment-roll of the county or counties in which the land of the district is contained in so far as said assessment-roll affects the lands in the district; and file with the clerk of the board of supervisors a certified copy of such assessment-roll, in lieu of the assessment-book mentioned in section eight of this act. [New section added May 31, 1917; Stats. 1917, p. 1409.]

§ 36. **Sale of water.** The board of directors of any district hereafter organized hereunder shall have the power to sell water to owners of land in the district and to fix rates for the sale of water, and such rates may vary in different months and in different localities of the district to correspond to the cost and value of the service, and to collect for all water sold and to use so much of the proceeds of the sale of water as may be necessary to defray the ordinary operating expenses of the district and any funds derived from the sale of water, in excess of the amount necessary for operating expenses, shall be paid to the treasurer of the county in which said district is located and applied upon the payment of interest on bonds or to create a sinking fund. [New section added May 31, 1917; Stats. 1917, p. 1409.]

TITLE 610.

WATERING RESORTS.

ACT 4349e.

An act providing for the sanitation, healthfulnes and cleanliness and safety of swimming-pools, public bathhouses, swimming and bathing places; regulating the granting and revocation of permits therefor from the state board of health; providing for the inspection of such places; declaring places and things in violation of this act to be nuisances dangerous to health and providing for the abatement of the same; making violations of this act misdemeanors; and providing for the punishment of the same.

[Approved April 6, 1917. Stats. 1917, p. 70. In effect July 27, 1917.]

§ 1. **Swimming-pools under supervision of state board of health.** The state board of health shall have supervision over the sanitation, healthfulness and cleanliness and safety of swimming-pools, bathhouses, public swimming and bathing places and all related appurtenances and is hereby empowered to make and enforce such rules and regulations pertaining thereto as it shall deem proper.

§ 2. **Permit to construct or operate swimming pool.** It shall be unlawful for any person, persons, firm, corporation, institution or municipality in any district, town, city, county, or city and county, to construct or to add to or modify, or to operate or to continue to operate any swimming-pool, public bathhouse, bathing or swimming place, or any structure intended to be used for swimming or bathing purposes without an unrevoked permit so to do from the state board of health. This permit shall be obtained in the following manner: any person, persons, firm, corporation, institution or municipality desiring to construct, add to or modify, or to operate and maintain any swimming-pool, public bathhouse, bathing or swimming places or structures intended to be used for swimming or bathing purposes within the state of California shall file application for permission so to do with the state board of health, which application shall be accompanied by detailed maps, drawings, specifications and description of the structure, its appurtenances and operation, description of the source or sources of water supply, amount and quality of water available and intended to be used, method and manner of water purification, treatment, disinfection, heating, regulating and cleaning; life-saving apparatus, and measures to insure safety of bathers; measures to insure personal cleanliness of bathers; method and manner of washing, disinfecting, drying and storing bathing apparel and towels, and all other information and statistics that may be required by the state board of health; whereupon, the state board of health shall cause an investigation to be made of the proposed or existing pool or public bathing places and if it shall determine as a fact that the same is or may reasonably be expected to become unclean or insanitary or may constitute a menace to public health, it shall deny the application for permit; if it shall determine as a fact that the same is or may reasonably be expected to be conducted continuously in a clean and sanitary manner and will not constitute a menace to public health, it shall grant the application for permit under such restrictions as it shall deem proper.

§ 3. **Authority to inspect.** For the purpose of this act the state board of health or its inspectors shall at any and all reasonable times have full power and authority to, and shall be permitted to enter upon any and all parts of the premises of such bathing and swimming places to make examination and investigation to determine the sanitary condition of such places and whether the provisions of this act or the rules and regulations of the state board of health pertaining thereto are being violated. The state board of health may from time to time at its discretion publish the reports of such inspections in its monthly bulletin.

§ 4. **Revocation of permit.** Any permit granted by the state board of health as provided in this act shall be revocable or subject to suspension at any time by formal action of the state board of health if it shall determine as a fact that the swimming or bathing place or places are being conducted in a manner insanitary, unclean or dangerous to public health.

§ 5. **Swimming-pools operated contrary to act nuisances.** Any swimming-pool, public swimming or bathing place or places, constructed, oper-

ated or maintained contrary to the provisions of this act are hereby declared to be public nuisances, dangerous to health. Such nuisances may be abated or enjoined in an action brought by the local or state board of health or they may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health.

§ 6. **Penalty.** Any person, firm or corporation, whether as principal or agent, employer or employee, who violates any of the provisions of this act shall be guilty of a misdemeanor, and each day that conditions or actions, in violation of this act, shall continue, shall be deemed to be a separate and distinct offense, and for each offense, upon conviction, he shall be punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

TITLE 611.

WATERS.

ACT 4351.

An act to preserve and maintain the lakes, ponds, brooks, creeks, rivers, and streams of this state, and to prevent the waters thereof from being carried by pipes, conduits, ditches, tunnels or canals into other states, for use therein. [Approved March 3, 1911. Stats. 1911, p. 271.]

Repealed 1917; Stats. 1917, p. 284.

TITLE 614.

WEIGHTS AND MEASURES.

ACT 4385.

An act to establish a standard of weights and measures in the state of California; to regulate weights and measures and weighing and measuring instruments and devices and providing for the inspection and sealing thereof; to prevent the use and sale of false weights and measures and weighing and measuring instruments and devices; providing for the inspection, measurement and weighing of goods, commodities, wares, packages and amounts of commodities kept for sale or in process of delivery; to prevent the sale of goods, wares and merchandise by false weights and measures; to provide penalties for the violation of the provisions of this act; for the admission in evidence of copies of the state's standard of weights and measures; providing for the appointment of officers to enforce and carry into effect the provisions of this act, including a state superintendent of weights and measures and his deputy, sealers of weights and measures and their deputies; defining the powers and duties of such officers; and making an appropriation to carry this act into effect.

[Approved June 16, 1913. Stats. 1913, p. 1086.]

Amended 1915, p. 1312; 1917, p. 1647.

The amendment of 1917 follows:

§ 2. **Term, etc., of state superintendent of weights and measures.** The term of office of state superintendent of weights and measures shall be four years, or until his successor shall have been appointed and qualified, but he shall always be subject to removal at the pleasure of the governor. The salary of state superintendent of weights and measures shall be four thousand dollars per annum, payable in the same manner as other state officers are paid. Before entering upon his duties he shall execute a bond to the state in the sum of five thousand dollars, conditioned upon the faithful performance of his duties. [Amendment approved June 1, 1917; Stats. 1917, p. 1648.]

§ 6. **Standards.** The standards referred to in the preceding section shall be kept by the state superintendent in a safe and suitable place in his office from which they shall not be removed except for repairs or certification. He shall maintain such standards in good order and shall submit them at least once in ten years to the national bureau of standards for certification. Upon demand the secretary of state shall deliver to the state superintendent all standards now under the control and in the possession of the secretary of state in his capacity of ex-officio state sealer of weights and measures. The state superintendent shall thereupon submit such standards received from the secretary of the state to the national bureau of standards for certification, and he shall replace such standards as are incorrect and purchase such additional standards as shall be necessary to complete and make up a complete standard of weights and measures as required by this act. He shall also purchase such apparatus as shall be found necessary to a proper prosecution of the work of the office. The state superintendent of weights and measures may establish tolerances and specifications for commercial weighing and measuring apparatus for use in the state of California similar to the tolerances and specifications recommended by the national bureau of standards, and he may establish a standard net weight, or net measure, or net count of any commodity, produce or article except any manufactured commodity consisting of four or more staple ingredients, and prescribe such tolerances for same as he may in his best judgment deem necessary for the proper protection of the public. Any person violating such standards or tolerances shall be guilty of a misdemeanor. [Amendment approved June 1, 1917; Stats. 1917, p. 1648.]

§ 17. **Appointment of sealers. In counties of second class. Counties in which deputies appointed by state superintendent.** The legislative body of any county or consolidated city and county of the first to the thirty-fifth classes, both inclusive, and the legislative body of any city or town may appoint a sealer of weights and measures, fix his compensation and provide for the appointment by the sealer of such number of deputies as the said legislative bodies may deem necessary and expedient. Such sealer shall receive as compensation the sum of one hundrd fifty dollars per month, or at the rate of one hundred fifty dollars per month for each month or part thereof actually employed in the service of such county, or city and county, or city and town. He shall be allowed his traveling expenses actually and necessarily incurred in the performance of his duties; and such deputies shall each receive as compensation the

sum of five dollars per day for each day actually employed in the service of such county, or city and county, or city and town. They shall be allowed their traveling expenses actually and necessarily incurred in the performance of their duties. The term of office of sealer of weights and measures appointed under the provisions of this section shall be four years. He shall be subject to removal by the power appointing him. Deputies appointed under the provisions of this section by a sealer of a county, city and county, or city, or town, shall be subject to removal by the sealer.

In counties of the second class whose charters provide for a department of weights and measures, the appointment of a sealer and deputies, the number of such deputies and the term of office thereof shall be as provided in said charter; provided, that the sealer shall receive for compensation the sum of three thousand dollars per annum, and one deputy, to be known as chief deputy, shall receive as compensation the sum of two thousand four hundred dollars per annum. Deputies shall receive as compensation the sum of one thousand eight hundred dollars per annum, each payable in the same manner as the salaries of other county officers are paid. In counties of the third class the sealer shall receive as compensation the sum of one thousand eight hundred dollars per annum, and deputies shall each receive as compensation the sum of one thousand five hundred dollars per annum, payable in the same manner as the salaries of other county officers are paid.

In all counties other than those of the first to the thirty-fifth classes, both inclusive, no county sealer or deputies shall be appointed by the legislative body thereof, but the state superintendent of weights and measures shall assign to such counties, or groups of such counties, such deputy superintendents as may be necessary, but not more than one to each of such counties. Such deputies shall have jurisdiction over such county, or group of counties, as the state superintendent may designate, except within the territorial limits of those cities and towns within which sealers have been appointed under the provisions of this act. They shall have all the powers and perform the duties of a sealer of weights and measures. They shall be paid by the county wherein employed, five dollars a day for each day employed therein, which shall not exceed one hundred twenty days in any one county in any one year, and they shall also receive from such county their actual traveling expenses. The terms of office of all sealers and deputy sealers in all counties other than those of the first to the thirty-fifth classes, both inclusive, shall terminate when this section becomes effective. [Amendment approved June 1, 1917; Stats. 1917, p. 1649.]

§ 32. **Penalty for using false weights and measures.** Any person who, by himself, or his employee or agent, or as the employee or agent of another, shall use, in the buying or selling of any commodity, or retain in his possession a false weight or measure or weighing or measuring instrument, or shall offer or expose for sale, or sell, except as heretofore specifically allowed in section twenty-seven of this act, or use or retain in his possession any weight or measure or weighing or measuring instrument in any county, city town, or city and county in which there has

been appointed a sealer of weights and measures in accordance with the provisions of this act, which has not been sealed by a sealer within one year, or who shall use or dispose of any condemned weight or measure, or weighing or measuring instrument contrary to law, or any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer or expose for sale or use or have in his possession for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure, and any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer, or expose for sale any commodity, produce, article or thing in a less quantity than he represents it to be or contain, shall be guilty of a misdemeanor. Possession of any false weight or measure or weighing or measuring instruments or records thereof shall be prima facie evidence of the fact that they were intended to be used in the violation of law. [Amendment approved June 1, 1917; Stats. 1917, p. 1650.]

§ 32a. **Penalty for selling commodity at other than true net weight.** No person shall by himself or his employee or agent, or as the employee or agent of another sell or offer or expose for sale any commodity, produce, article or thing at, by, or according to gross weight or measure, or at, by, as, of, or according to any weight, measure or count which is greater than the true net weight, measure or count thereof, or which is less than the standard net weight, standard net measure or standard net count, including tolerances, as such standards and tolerances are now or may hereafter be established pursuant to the provisions of this act. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. [New section added June 1, 1917; Stats. 1917, p. 1650.]

§ 43. **Title.** This act when cited or amended may be designated as the "weights and measures act." [Amendment approved June 1, 1917; Stats. 1917, p. 1650.]

TITLE 619.

WHITTIER STATE SCHOOL.

ACT 4414.

An act authorizing the board of trustees of the Whittier State School to maintain a department for the clinical diagnosis of inmates of the school and other state institutions, and to inquire into the causes and consequences of delinquency and mental deficiency, and related problems.

[Approved May 11, 1917. Stats. 1917, p. 422. In effect July 27, 1917.]

§ 1. **Department of clinical diagnosis at Whittier State School.** The board of trustees of the Whittier State School is hereby authorized and empowered to maintain on the property of the school, a department for the clinical diagnosis of the inmates of the school, and of such other state institutions as may, from time to time, request assistance from said department, such request to be approved by the state board of control. This department shall also carry on research into the causes and conse-

quences of delinquency and mental deficiency, and shall inquire into social, education and psychological problems relating thereto, and for that purpose may make such investigations and inquiries in the said institutions, when so requested, and elsewhere as may be deemed advantageous. The state board of control may apportion the expenses of the said department, among the different institutions receiving the benefit of the work of the department, in such manner as it may deem proper.

§ 2. **Clinical psychologist and assistants.** The said department shall be under the direction of a clinical psychologist, subject to the control of the superintendent of the said school. The said psychologist shall be given a sufficient staff of trained assistants that the intelligence level of each inmate may be established through the standardized psychological tests, supplemented by personal and family history and data from such other lines of investigation as may seem advisable, and that such other work may be done as may be undertaken by the department. The said psychologist and assistants shall be employed by the said superintendent, with the approval of the said board of trustees and at compensation satisfactory to it.

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